

EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF DELAWARE

CRYSTALLEX INTERNATIONAL : NO. 2023-cv-1074
CORP., :

Plaintiff, :

v. :

BOLIVARIAN REPUBLIC OF :
VENEZUELA, :

Defendant. :

August 18, 2025

Hearing in the above captioned
matter, held at United States
District Court, 844 N. King Street,
Unit 18, Wilmington, Delaware
19801, beginning at approximately
10:00 a.m., before Mary Hammond, a
Certified Shorthand Reporter and
Notary Public in the state of
Pennsylvania.

1 PRESENT IN THE COURTROOM VIA SIGN IN SHEET:

2 Nate Eimer, Esquire

3 Daniel Birk, Esquire

4 Travis Hunter, Esquire

5 Jeffrey Moyer, Esquire

6 Robert Weigel, Esquire

7 Jason Myatt, Esquire

8 Zach Kady, Esquire

9 Joshua Bolian, Esquire

10 Marie Degnan, Esquire

11 Juan Perla, Esquire

12 George Garvey, Esquire

13 R. Craig Martin, Esquire

14 James Berger, Esquire

15 Alice Gyamfi, Esquire

16 Kevin J. Morgan, Esquire

17 Matthew H. Kirtland, Esquire

18 Michael J. Zluticky, Esquire

19 Kevin Manga, Esquire

20 Brendan McDonnell, Esquire

21 Chris Cannatar, Esquire

22 Jody Barillare, Esquire

23 Chirs Carter, Esquire

24 David Shim, Esquire

PRESENT IN THE COURTROOM VIA SIGN IN SHEET CONTINUED:

Brian Lemon, Esquire

Miguel Lopez Forastien, Esquire

Leroy A. Gannett, Esquire

Justin M. Forcier, Esquire

Daniel Mason, Esquire

Jeffrey Reacher, Esquire

Malisa Dang, Esquire

Chase Bentley, Esquire

Jared Friedmann, Esquire

Matthew Barr, Esquire

Susan Warsuo, Esquire

Jennifer Cree, Esquire

Steen Molo, Esquire

Justin Ellis, Esquire

Gregory Ranzini, Esquire

Paul Koepp, Esquire

Alessandra Glonois, Esquire

Michelle McGreal, Esquire

Garrett Moritz, Esquire

Elizabeth Taylor, Esquire

Michael Cassel, Esquire

Marcus Green, Esquire

Shannon Doughty, Esquire

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PRESENT IN THE COURTROOM VIA SIGN IN SHEET CONTINUED:

Andrew Rossman, Esquire

Jonathan Acevedo, Esquire

Susan Kirpalani, Esquire

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P-R-O-C-E-E-D-I-N-G-S
- - -

THE COURT: Please have a
seat.

Let's begin by having you
enter your appearances beginning
with Special Master, please.

MS. DANG: Good morning, Your
Honor.

Malisa Dang, with Potter
Anderson & Corroon, on behalf of
the Special Master, Robert B.
Pincus.

I'm joined by my cocounsel,
from Weil, Gotshal & Manges,
Chase Bentley, Jared Friedman, and
Matthew Barr.

THE COURT: Good morning.
Thank you.

Folks are joining the meeting.
All right. That's the Sale
Process party.

Good morning, Your Honor.

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1 Jeff Moyer, from Richards, Layton &
2 Finger, on behalf of Crystallex.

3 I'm here with my partner,
4 Travis Hunter.

5 We're joined by our cocounsel,
6 Miguel Estrada, Robert Weigel,
7 Jason Myatt, and Zach Kady, from
8 the Gibson Dunn firm.

9 THE COURT: All right.

10 Thank you.

11 Conoco Phillips.

12 Good morning.

13 MR. MORITZ: Good morning,
14 Your Honor.

15 Garrett Moritz, from Rose,
16 Aronstam, on behalf of Conoco
17 Phillips.

18 I'm joined by my colleague,
19 Elizabeth Taylor;

20 And, also, my cocounsel from
21 Wachtell Lipton, Mike Cassel;

22 And from Kobre & Kim,
23 Marcus Green.

24 And Mr. Cassel will be

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1 speaking for Conoco today.

2 Thank you, Your Honor.

3 THE COURT: I am having a
4 little trouble hearing as well.

5 I don't know if you can turn
6 up the volume on the microphone.
7 If we can, let's try.

8 Let's turn to the Venezuela
9 parties, please.

10 MS. WAESCO: Good morning,
11 Your Honor. Susan Waesco, from
12 Morris, Nichols, Arsht & Tunnel, on
13 behalf of PDVH Holding and Citgo.

14 I'm joined today by Nate Eimer
15 and Dan Birk from Eimer Stahl.

16 THE COURT: Thank you.

17 MS. WAESCO: Thank you, Your
18 Honor.

19 THE COURT: Good morning.

20 MR. McDONNELL: Good morning,
21 Your Honor.

22 Brendan McDonnell, from Heyman
23 Enerio Gattuso & Hirzel, on behalf
24 of PDVSA, joined by my cocounsel,

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1 Juan Perla, from Curtis.

2 Thank you.

3 MR. CANNATARO: Good morning,
4 Your Honor.

5 Chris Cannataro, from Abrams &
6 Bayliss, on behalf of Republic.

7 I'm joined by George Garvey,
8 from Munger, Tolles & Olson.

9 MR. GARVEY: Good morning,
10 Your Honor.

11 THE COURT: Anybody -- I'm
12 pointing to my right side of the
13 courtroom -- who wants to enter an
14 appearance, starting with -- well,
15 let's start with the front row.
16 Just go from the front towards the
17 back. Thank you.

18 Good morning.

19 MR. MANGAN: Good morning,
20 Your Honor.

21 Kevin Mangan, from Womble Bond
22 Dickinson, for Gold Reserve Ltd.

23 Allow me to make some
24 introductions, from left to right:

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1 Matthew Kirtland, from Norton
2 Rose Fulbright, my cocounsel;

3 Paul Rivett, who is the Chief
4 Executive Officer of Gold Reserve;

5 Michael Johnston, Board
6 Member.

7 And, then, we have Sy Ahmed, a
8 representative;

9 And Catherine Holt, in-house
10 counsel, separately for the Koch
11 entities.

12 Allow me to introduce
13 Nicholas Zluticky of the Stinson
14 firm.

15 THE COURT: Okay.

16 Good morning to all of you.

17 MR. MARTIN: Good morning,
18 Your Honor.

19 Craig Martin, from DLA Piper.
20 And I have with me Mr. James
21 Burger, we will make any
22 presentation;

23 And Ms. Alice Gyamfi from our
24 firm in New York.

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1 THE COURT: Okay.

2 MR. MARTIN: Thank you.

3 MR. BARRILLARE: Good morning,
4 Your Honor.

5 Jody Barrillare, from Morgan
6 Lewis, on behalf of OIEG.

7 And with me today are my
8 colleagues, Christopher Carter, and
9 David Shim.

10 And Mr. Carter will handle the
11 presentation today.

12 Thank you, Your Honor.

13 THE COURT: Good morning.

14 MR. RANZINI: Good morning,
15 Your Honor.

16 Gregory Ranzini, of Blank Rome
17 LLP, on behalf of the GLAS Americas
18 LLC, solely in its capacity as a
19 collect hold agent.

20 I am joined here today by my
21 colleague, Paul Koepp, of Seward &
22 Kissel, who, with the Court's
23 permission, will be speaking if we
24 have to speak today.

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1 THE COURT: Okay.

2 MR. RANZINI: Thank you.

3 THE COURT: Good morning.

4 MS. DOUGHTY: Good morning,
5 Your Honor.

6 Shannon Doughty, from Quinn
7 Emanuel, on behalf of Amber Energy.

8 I'm here today with my
9 colleagues, Shusheel Kirpalani and
10 Andrew Rossman and Jonathan
11 Acevedo.

12 THE COURT: Okay.

13 Welcome.

14 MS. CREE: Good morning, Your
15 Honor.

16 Jennifer Cree, from Landis
17 Rath & Cobb, on behalf of Red Tree
18 Investments, LLC.

19 I'm joined this morning by my
20 colleagues, Steven Molo, and
21 Justin Ellis.

22 I expect Mr. Molo to speak on
23 behalf of Red Tree.

24 THE COURT: Okay.

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1 MS. CREE: And while I'm up
2 here, I'll also tell you that we
3 represent Contrary Capital
4 Management, LLC as well.

5 THE COURT: Thank you very
6 much.

7 Anyone else on this side of
8 the courtroom who wants to enter an
9 appearance?

10 (No response.)

11 THE COURT: Okay.

12 Well, we'll turn to starting
13 with the front row of the other
14 side.

15 MS. DEGNAN: Good morning,
16 Your Honor.

17 Marie Degnan of Ashby &
18 Geddes, on behalf ACL.

19 I'm joined by my cocounsel,
20 Josh Bolian, of Riley & Jacobson.

21 And with the Court's
22 permission, Mr. Bolian will be
23 speaking on our behalf today.

24 THE COURT: Good morning.

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1 MR. BOLIAN: Good morning.

2 MR. GARRETT: Good morning,
3 Your Honor.

4 I am Leroy Garrett, pro se, on
5 behalf of 23,000 victims of the
6 Petrolevry Holocaust.

7 Good morning.

8 THE COURT: Good morning.
9 Welcome.

10 MR. FORCIER: Good morning,
11 Your Honor.

12 Justin Forcier, of Reed Smith,
13 on behalf of Siemens Energy.

14 And no one is joining me
15 today.

16 Thank you, Your Honor.

17 THE COURT: Okay.

18 Anyone else on the left side?

19 MR. MASON: Good morning, Your
20 Honor.

21 Dan Mason, from Paul, Weiss's
22 Wilmington office, on behalf of the
23 2020 Bondholders.

24 I'm joined by my colleagues

1 from our New York office,
2 Jeffrey Recher, Andrew Rosenberg,
3 and Sam Arguiles.

4 And Mr. Recher will address
5 any issues on our behalf.

6 THE COURT: Okay. Thank you.
7 Anyone else?

8 THE WITNESS: Good morning,
9 Your Honor.

10 THE COURT: Good morning.

11 MR. LEMON: Brian Lemon, of
12 Akerman, joined today by Miguel
13 López Forastier of Covington.
14 We're here on behalf of Tidewater
15 entities, Corsorcio Andino, and
16 Valores Mundiales.

17 THE COURT: Anybody else here
18 who wants to enter an appearance?

19 (No response.)

20 THE COURT: Okay.

21 Well, thank you for that.

22 Thank you all for being here.

23 I know we had thought we might
24 be starting the Sale Hearing, but

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1 as is well documented we're not
2 here for the Sale Hearing today.

3 We're here essentially to talk
4 about the next steps in this
5 process.

6 Thank you, also, for the
7 expedited and very helpful briefing
8 over the weekend.

9 I am going to proceed in the
10 following manner:

11 I'm first going to give you my
12 updated inclinations. I have given
13 you my inclinations as to what I
14 thought might be the next steps
15 prior to, of course, receiving the
16 briefing.

17 Now, I've had a chance to
18 review everybody's position, and I
19 thought it might help the morning
20 go by a little more smoothly to
21 tell you just where I am as we
22 begin. And, then, of course, I
23 will give everyone who wants to be
24 heard a chance to be heard.

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1 The updated inclinations are
2 going in roughly the order that you
3 all just entered your appearances,
4 but basically it's Special Master,
5 Sale Process Parties, all of the --
6 turn to the Dalinar Energy
7 Consortium, the current Recommended
8 Bid next, and, then, essentially
9 everybody else who wants to be
10 heard thereafter.

11 Time permitting, a brief
12 rebuttal, but no guarantees about
13 that.

14 And I would say when you come
15 up, not only say what you want to
16 say about my updated inclinations,
17 but I am looking to identify any
18 other issues anyone has in mind
19 that you think I should be thinking
20 about or trying to resolve in hopes
21 of not having to reschedule the
22 Sale Hearing yet again.

23 So here's where I am.

24 Oh, sorry.

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1 MS. WAESCO: Your Honor, if I
2 may, apologies, Susan Waesco, I
3 believe a line was muted in the
4 courtroom, so that people on that
5 line can't hear you right now.

6 THE COURT: "Muted" as in they
7 can't hear?

8 MS. WAESCO: As in they can't
9 hear you. I think they turned it
10 down while they were joining the
11 line.

12 THE COURT: Okay.

13 Let me pause for a moment, and
14 ask my deputies if they can...

15 MS. WAESCO: Thank you so
16 much. My apologies for the
17 interruption.

18 THE COURT: Sure.

19 Do you think it's good? I
20 guess that's the tradeoff.

21 Ms. Waesco, are you in a
22 position to know whether now they
23 can hear me?

24 MS. WAESCO: I will know very

1 shortly --

2 THE COURT: Okay.

3 MS. WAESCO: -- and I will
4 report back. I will interrupt
5 again if there's a problem.

6 THE COURT: Please rise again,
7 if you determine that they cannot
8 hear me. All right.

9 So I think where I was, I want
10 to give you my undated inclinations
11 before we, then, move into hearing
12 from all of you.

13 I'm not necessarily going to
14 give you all my explanations now
15 because this is subject from
16 whatever I hear from you.

17 But my current inclination is
18 to reject the Gold Reserve request
19 that I do briefing now on whether
20 or not a Superior Proposal has been
21 received.

22 I don't know if we can turn
23 the volume down without them not
24 being able to hear me, but, if we

1 can't, then, we're just going to
2 have to tolerate some
3 interruptions, I guess.

4 So, again, updated inclination
5 not to accept the Gold Reserve
6 request, that we do some briefing
7 right now on the issue that's
8 raised in their letter briefs about
9 overbids, and that sort of thing.

10 Second, no waiting for
11 Judge Failla's ruling before I
12 decide how to proceed. My intent
13 is to probably today tell you what
14 the date is going to be for the new
15 hearing, and that that new hearing
16 is not going to wait for
17 Judge Failla's decision.

18 Further, I am inclined to
19 Order the Special Master by this
20 Thursday, which, I believe, is
21 August 21st, to propose a new
22 schedule based on my rulings today
23 and any further meeting and
24 conferring that you do between now

1 and Thursday.

2 That schedule will need to
3 contemplate all different
4 permutations of when they occur
5 next week and when I'm going to
6 require them to tell us whether he
7 is in receipt of a Superior
8 Proposal.

9 So the schedule will have to
10 contemplate the possibility that he
11 may adhere to his current
12 recommendation of the Dalinar
13 Energy Consortium. He may instead
14 say that he is now recommending
15 what he has deemed a Superior
16 Proposal. If he will do that, it
17 needs to contemplate that Dalinar
18 may well exercise its right to
19 match that Superior Proposal, and
20 it may well not.

21 I think with the guidance that
22 I'm hoping to give today that by
23 this Thursday the Special Master
24 can come up with a schedule that

1 contemplates all of those
2 possibilities, because it's not
3 clear to me that the discovery and
4 briefing will need to be all that
5 much different, depending on which
6 of those hats end up being taken.

7 The schedule -- while I'm
8 inclined to say indicate that new
9 discovery will be strictly limited
10 to that which is directly related
11 to any change in the Special
12 Master's recommendation or his
13 decision not to change his
14 recommendation, that schedule will
15 also provide for limited additional
16 pre-hearing briefing, limited
17 principally to any new issues that
18 have arisen.

19 And, also, I recognize that I
20 did cut off the sur-reply briefs
21 from those who were supporting the
22 Gold Reserve/Dalinar Bid that would
23 have been filed this past Saturday,
24 and, so, the new briefing schedule

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1 should permit that opportunity for
2 essentially what would have been a
3 brief SOR replies this past
4 Saturday.

5 All of that briefing, I'm
6 inclined to say, will need to be
7 completed by September 11th because
8 my inclination is to have the
9 rescheduled Sale Hearing in
10 September, and I would schedule
11 that for September 15th, to 18th.
12 I'll say a little more about that
13 in a moment.

14 I'm trying to move toward
15 forward to get to September.

16 By August 25th, next Monday,
17 I'm inclined to require the Special
18 Master to advise all of us whether
19 he has received a Superior Proposal
20 or has not.

21 With respect to any new
22 Unsolicited Bids received after
23 August 25th, next Monday, I'm
24 inclined to require that they be

1 docketed on the public docket with
2 any appropriate redactions, as
3 required by the terms of access to
4 confidential information, and that
5 if we receive new Unsolicited Bids
6 after August 25th, that that has no
7 impact on the schedule, that the
8 schedule just simply proceed as
9 ordered, unless there were some
10 subsequent further Order from the
11 Court.

12 And the Special Master -- it
13 will be up to him whether or not to
14 request from me the opportunity to
15 engage with such Unsolicited
16 Bidder.

17 Moving forward in time, by
18 Thursday, August 28th, that will be
19 the deadline for the Dalinar Energy
20 Consortium to decide to whether to
21 match the Superior Proposal if one
22 has been deemed to have been
23 received by the August 25th
24 deadline.

1 I'm now into September.
2 Again, the Sale Hearing, I'm
3 inclined to schedule for
4 September 15th to 18th, and I would
5 ask that you all keep available the
6 times between 8:00 a.m. and
7 7:00 p.m., all four of those days.

8 It is doubtful to me that we
9 will need to meet for that full
10 length of time, but I would
11 consider all of that time available
12 to me to hold this Hearing, and we
13 will set the specific times as we
14 get a little bit closer.

15 Witnesses can be taken out of
16 order, if needed, to accommodate
17 schedules.

18 I did notice that the
19 Venezuela Parties indicated, I
20 think, Mr. Wisenberger (ph.) as
21 being only available on Monday.

22 It's a bench trial. You all
23 should be reasonable. If you're
24 not reasonable, I will Order you to

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1 be reasonable, even if that's not
2 the date available, even if that's
3 not logically when we would want
4 him to testify. Ideally, I'm going
5 to accommodate things like that.

6 In the lead-up to the
7 September 15th start of the Sale
8 Hearing, by September 9th I will
9 require -- this is my inclination.
10 I'd be inclined to require the
11 Special Masters to submit on behalf
12 of all of you the proposed
13 requested number of hours for your
14 hearing, for you to be heard at the
15 hearing, as well as a witness list,
16 and a list of if there happens to
17 be any disputed issues at that
18 point about how we should use our
19 time together at the Sale Hearing,
20 because my plan would be other than
21 to schedule that on September 10th,
22 at 3:30, I would have a
23 teleconference, basically a
24 pre-hearing teleconference, ideally

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1 to resolve any disputes about what
2 the hearing is going to look like
3 the following week.

4 As you contemplate making your
5 requested number of hours, I am
6 inclined to allow opening
7 statements, if folks want to use
8 some of their time on it, but I
9 would require that anyone who wants
10 to make an opening statement let
11 everybody else by noon on the
12 preceding Friday that you intend to
13 make an opening statement.

14 And I'm further inclined to
15 say that witnesses that have been
16 identified by any entity, as of
17 today, are available to be called,
18 subject to further objections that
19 you would have to put in the
20 September 9th report and resolved
21 on September 10th.

22 And, then, the only other
23 piece of the inclinations is that
24 there would be post-trial briefing

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1 and post-trial proposed findings of
2 fact on a schedule to be
3 determined, but my expectation
4 would be that everything would have
5 to done by Monday, October 20th,
6 roughly a month after the Hearing.

7 That's the inclinations. The
8 Hearing will follow that. I'm
9 happy to answer questions about it
10 when you get up, but at this point
11 I want to turn it over to all of
12 you.

13 So let me call on Special
14 Master's counsel to start us off.

15 Yes?

16 MS. WAESCO: Your Honor, if I
17 may, Susan Waesco, again.

18 I am told that the Court is
19 still on mute.

20 THE COURT: I'm told I.T. is
21 on its way.

22 MS. WAESCO: Excellent.

23 THE COURT: And apologies to
24 those who are not hearing me. I

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1 apologize. Hopefully, we will fix
2 it, and the transcript is being
3 taken down. All right.

4 Whenever counsel for the
5 Special Master is available, he can
6 start us off, any thoughts on the
7 Inclinations or on anything else.

8 Good morning.

9 MR. BENTLEY: Good morning,
10 Your Honor.

11 Chase Bentley, of Weil,
12 Gotshal & Manges, for Special
13 Master.

14 Your Honor, we were prepared
15 to come into the Hearing today and
16 let you know that as between the
17 proposed commencement dates of
18 September 15th and October 20th,
19 suggested by the Court in your
20 prior Order, the Special Master was
21 going to prefer the October date
22 subject to a number of caveats and
23 clarifications, which, Your Honor,
24 I think satisfied any questions or

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1 clarifications and guardrails that
2 we would have requested or
3 cautioned Your Honor about, and you
4 did so in your updated
5 Inclinations.

6 So, just to start out, Special
7 Master has no issue with proceeding
8 on the basis that you laid out
9 culminating a September 15th
10 hearing. And I think that the
11 reason that the Special Master is
12 comfortable with that is because in
13 large part of the limited briefing
14 and the lack of separate briefing
15 that will need to be done on the
16 Gold Reserve overbid issue that
17 they've raised.

18 I'll be brief because, Your
19 Honor, your dates essentially line
20 up with exactly what we were coming
21 in today to propose in the event
22 you were so inclined to propose a
23 September Hearing.

24 The only date that we were

1 going to propose that was different
2 although I don't think it is
3 necessary to -- to go down our path
4 now was on the proposed schedule,
5 or, like I said, the joint status
6 report reflecting the proposed
7 schedule.

8 We were going to say
9 August 25th, but we are more than
10 happy to -- to move the parties
11 forward immediately following this
12 Hearing, culminating in a Thursday
13 status report. Just so that we can
14 have our view stated on the record,
15 as I'm sure other parties will do,
16 so when they get up after me, I'll
17 still go through briefly some of
18 the reasoning that we had on the
19 caution regarding the need for
20 guardrails for September 15th
21 hearing.

22 As stated in our briefs over
23 the weekend, the Special Master,
24 you know, has always been happy to

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1 hold the Hearing whenever the Court
2 so determines and when we've
3 prepared to do so, and including if
4 it is, and it seems that's the way
5 we're headed now is a September
6 Hearing.

7 One thing that we would like
8 to note for the record and for Your
9 Honor and I think that it will play
10 itself out in the next few days
11 here is that there have been a
12 number of parties, Venezuela, Gold
13 Reserve, and Red Tree, in
14 particular, that have all indicated
15 that they plan to seek
16 additional -- I'll use the term
17 litigation because that's briefing,
18 discovery, depositions, additional
19 witnesses, so...

20 And, in particular, we know
21 that there is an issue between Red
22 Tree and Venezuela as to whether
23 Red Tree's intention to call
24 additional witnesses in light of

1 the new bids, I will be permitted
2 to be clearer for the record, the
3 Special Master has no objection to
4 Red Tree offering those new
5 witnesses, but we're also conscious
6 of the fact, though, the parties
7 require depositions of those
8 experts.

9 The Special Master does think
10 that there's sufficient time to
11 complete that from now and over the
12 course of the next few weeks
13 leading up to the September 15th
14 Hearing.

15 And I think that this has been
16 consistent in the Special Master's
17 position throughout, and, in
18 particular, in the last several
19 months as the topic of discovery
20 has developed.

21 Special Master has a different
22 role, frankly, than any of the
23 other parties in this matter when
24 it comes to discovery and witness

1 testimony, such as taken the role
2 of facilitating whatever amount of
3 the litigation the parties in this
4 matter insist upon and the Court
5 approves.

6 Therefore, again, the Special
7 Master is not going to oppose Red
8 Tree proposing additional
9 witnesses, but, again, only
10 cautions that to the extent there
11 is an insistence by parties that
12 whether there was offering
13 witnesses or those intending to
14 contest them, that extended
15 briefing or extended discovery
16 deposition occurs, this
17 September 15th Hearing date would
18 be in jeopardy; and, therefore, we
19 think it is paramount to put
20 guardrails on it, as Your Honor
21 seems to agree with, based on your
22 updated Inclinations.

23 I'm just looking through my
24 notes to see if there's anything

1 else that we want to put on the
2 record because for the most part
3 Your Honor covered it in your
4 opening Inclinations.

5 Maybe one thing that I should
6 clarify for the record, as I
7 suspect other parties might bring
8 it up.

9 The Special Master has been
10 consistent, both in his original
11 suggestion of an October Hearing,
12 and also in the Sunday brief where
13 we said that we would be okay with
14 the September Hearing.

15 One constant across both of
16 these scenarios is the shutting off
17 of the Special Master's evaluation
18 of bids after the upcoming
19 deadline, which we propose to be on
20 August 22nd.

21 It appears that some parties
22 may have conflated the Special
23 Master's collection and evaluation
24 of bids for purposes of his own

1 recommendation with the ability of
2 bidders or parties to submit a Bid
3 generally.

4 To be clear, the Special
5 Master is suggesting a former
6 meeting by this Friday,
7 August 22nd. All potential
8 competing bidders, including those
9 that have already submitted a
10 meeting proposal should submit to
11 the Special Master their final
12 offers.

13 That does not mean that a Bid
14 with an SPA subject to further
15 negotiation or one that still needs
16 executed commitment letters from
17 its financing sources, or one that
18 was still closing out agreement
19 with parties, whether it's the
20 judgment creditors or the 2020s,
21 those Bids should be in final and
22 executable form when submitted on
23 August 22nd.

24 It is important, and it means

1 that anyone interested in
2 participating must be engaging with
3 the Special Master now ahead of
4 August 22nd, or else risk their Bid
5 being rejected by the Special
6 Master.

7 All dates for the remainder of
8 the Sale Process leading up to the
9 Sale Hearing flow from this date
10 from our perspective, and it will
11 provide everyone with certainty
12 that the Special Master can lock in
13 his Final Recommendation, and that
14 recommendation can be briefed
15 without the risk of a repeat of the
16 last ten days.

17 Again, any Bidder can decide
18 to submit a Bid after August 22nd,
19 and in line with Your Honor's
20 initial Inclinations, or I should
21 say Updated Inclinations from this
22 morning, that the Special Master
23 proposes that it do so by filing
24 the Bid materials directly on the

1 document where all parties can
2 consider the Bid in parallel, and,
3 if necessary, can address the Bid
4 at the Hearing.

5 I think that the other point
6 that deserves some clarification,
7 or at least just a discussion of
8 how the mechanics work is, is the
9 match right as reflected in the
10 Dalinar SPA.

11 And this is also important as
12 to why we suggested that the
13 Special Master's Final
14 Recommendation or Updated Final
15 Recommendation, one way or the
16 other, be due August 29th. It is
17 simply just not practical to
18 require that Recommendation itself
19 on August 25th.

20 If that's the date that we
21 were aiming at, then, the Bids
22 would need to be due today in order
23 to accommodate the Dalinar match
24 right.

1 So just, again, for mechanics
2 purposes, the way that we would see
3 this timeline playing out is by
4 Friday, August 22nd, any further
5 Competing Proposals are submitted
6 to the Special Master for
7 consideration. The Special Master
8 will then take that weekend, next
9 weekend, to evaluate the Bids,
10 consult with the Sale Process
11 parties, and if there's any
12 necessary confirmation of terms of
13 that proposal that be done with the
14 relevant Bidder or Bidders.

15 And, then, by Monday, the end
16 of day, Monday, August 25th, the
17 Special Master, if he has
18 determined that one of those
19 Competing Proposals received on
20 August 22nd or by August 22nd is a
21 Superior Proposal, as defined in
22 the Dalinar SPA. Then, you would
23 simultaneously notify Dalinar of
24 that, and at the same time would

1 file a notice on the docket of the
2 same.

3 And I believe one nuance Your
4 Honor had in your Updated
5 Inclinations this morning was that
6 the Special Master should file a
7 notice whether he has determined
8 that there has been a Superior
9 Proposal or has not been. We, of
10 course, are happy to do that,
11 certainly, at this point even more
12 so, given the timeframe leading up
13 to the Sale Hearing are conscious
14 of transparency and want to make
15 sure that everybody has updated
16 information as soon as possible.

17 So, again, August 25th is when
18 that notice of Superior Proposal or
19 lack thereof would go out. Dalinar
20 would have three business days,
21 culminating at the end of the day
22 on August 28th, on Thursday, in
23 which to match that right.

24 Now, technically under the

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1 SPA -- and I think that this point
2 came up, either in Gold Reserve's
3 briefing, or perhaps it was just a
4 meet and confer that we had with
5 the parties last week, there is no
6 two-business-day period after the
7 three-business-day period in which
8 the Special Master gets to work the
9 Bidders against each other.

10 The two business days
11 referenced in the SPA are provided
12 only in the event that the
13 contemplated Superior Proposal is
14 updated during Dalinar match right
15 period. But with the process that
16 we have contemplated and Your Honor
17 seems inclined to go forward with,
18 that would not be able to happen
19 because the Bids are due on
20 August 22nd; therefore, there could
21 be no intervening update of the
22 Superior Proposal, for example, on
23 August 27th; that would, then,
24 create a new and extended two

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1 business days, culminating on
2 August 29th for Dalinar to match.

3 So that may be a little more
4 nuance in detail than we
5 necessarily need for today, but I
6 think that at bottom what it
7 results in is Dalinar's match right
8 expiring at the end of the day, on
9 August 28th, a Thursday, and the
10 deadline for the Special Master to
11 submit an Updated Final
12 Recommendation or to otherwise
13 reaffirm his existing
14 Recommendation would be Friday,
15 August 29th.

16 And, then, of course, any of
17 the deadlines and timing for
18 process proceeding from there until
19 the Sale Hearing on September 15th
20 will be addressed in the joint
21 status report that Your Honor
22 proposes us to file this week, and,
23 we, of course, are okay with that.

24 With that, Your Honor, I'm

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1 happy to answer any questions. I
2 don't think that we need to go into
3 detail on anything else for our own
4 accord on the record.

5 THE COURT: All right.

6 So the schedule you just set
7 out about sort of best and final
8 offers by this Friday, and, then,
9 telling us by Monday whether the
10 Special Master believes he has a
11 Superior Proposal, that does strike
12 me as slightly different than what
13 I set out in my inclinations.

14 So I want to see if either we
15 are on the same page or we're not
16 on the same page.

17 I had omitted a deadline of
18 this Friday, and only skipped ahead
19 to basically "you have what you
20 have," and I was creating a window
21 until next Monday for, I suppose,
22 any other Bid to come in. But at
23 the same time I was inquiring of
24 the Special Master to tell us by

1 Monday if he had received a
2 Superior Proposal.

3 I think part of what you're
4 telling me is that those two things
5 can't coexist. You need at least
6 the weekend between when you have
7 Bids in hand and you make a
8 determination as to whether any of
9 them in hand are superior to what
10 Koch recommended; is that true?

11 MR. BENTLEY: I suppose
12 technically they could coexist,
13 meaning on Sunday night we could
14 receive Updated Bids, but anybody
15 sending in a Bid then risks that.
16 We just simply do not have time to
17 engage with them if there are any
18 clarifications necessary, and we
19 may not understand what they are
20 putting forth.

21 We do think that the
22 August 22nd deadline is important
23 because there are a lot of
24 conversations that need to happen

1 between the Special Master and his
2 advisors and also consulting with
3 the Sale Process parties.

4 And, so, practically speaking,
5 we don't think that it makes a
6 whole lot of sense to have Bids
7 coming in over the weekend.

8 THE COURT: All right.

9 So you would propose that I
10 add to my Inclinations this Friday
11 deadline, Best and Final Bids to be
12 considered, so that the Special
13 Master can tell us Monday whether
14 he has a Superior Proposal,
15 correct, that's the Special
16 Master's position?

17 MR. BENTLEY: Correct.

18 THE COURT: And that seems to
19 make sense to me --

20 MR. BENTLEY: Correct.

21 THE COURT: -- tentatively,
22 sub tentatively, and subject to
23 whatever else I hear.

24 And, then, in terms of

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1 any Unsolicited Bids -- well, and
2 there can't be any Solicited Bids
3 thereafter, right?

4 MR. BENTLEY: Technically, no.

5 THE COURT: And they're not
6 solicited.

7 For Unsolicited Bids, I
8 suppose after Friday, although
9 you're not solicited on Friday
10 anyway, but I should change that
11 date to any Unsolicited Bid after
12 Friday goes on the docket.

13 And if you wanted to engage or
14 do anything, you're going to have
15 to make an application to the Court
16 in some fashion, otherwise it sits
17 on the docket and everyone can see
18 it and everyone will do what they
19 want to do with respect to it.

20 MR. BENTLEY: Correct, Your
21 Honor. And, in fact, I think I
22 would take it maybe a step further.

23 Right now, the construct is
24 that when we have an Unsolicited

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1 Competing Proposal come in, we must
2 inform the Board that we received
3 it, and request authority from the
4 Court to engage with that Bidder.

5 So I think that, you know,
6 just given how the mechanics have
7 developed here, I think that we
8 would right now be requesting a
9 blanket approval to engage with
10 whatever comes between today and
11 Friday.

12 And, then, after when any Bids
13 are filed on the public docket, we
14 do not intend to affirmatively
15 request your authority to engage
16 with anybody, but however if we are
17 so directed by the Court. For
18 example, if any of the other
19 parties request the Court to direct
20 the Special Master to engage with
21 that party that submitted a Bid
22 directly onto the docket, then, of
23 course, we will engage with them,
24 again, as so directed by the Court,

1 but we do not intend to
2 affirmatively request that.

3 THE COURT: I think I
4 understand.

5 One question on a topic that
6 was in the letter, but I don't
7 think you touched on this morning,
8 is, is there anything that Special
9 Master wants to say about Gold
10 Reserve's concerns about this
11 overbid minimum and certain other
12 payments that they think may be due
13 to them as a result of being the
14 Recommended Bid, and I may use
15 Dalinar and Gold Reserve
16 interchangeably to refer to the
17 Recommended Bid.

18 As I understand it, they
19 claimed to have rights not only
20 under the SPA that they negotiated
21 with you but also under our Bidder
22 Protections, which are embedded in
23 an Order. And it's through that
24 latter part that I'm more focused

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1 on than what's in the SPA that I
2 have not approved yet.

3 Do you have anything you want
4 to say about whether Bidder
5 Protections Orders give rise to
6 certain rights today as a result of
7 your recommendation to them?
8 That's the question.

9 MR. BENTLEY: So I think maybe
10 just to split this into two
11 responses.

12 First, any payments to them, I
13 would say that we agree that an
14 expense reimbursement would need to
15 be paid to them because they were
16 recommended by the Special Master
17 as the Recommended transaction back
18 on July 2nd.

19 As to the rest of it, we
20 disagree with their read of both
21 the SPA and the prior Orders. We
22 think that it renders the
23 definition of "Superior Proposal"
24 completely meaningless, and is

1 contrary to what every other party
2 and -- and we believe also the
3 Court may have intended when
4 setting out the evaluation criteria
5 they would essentially prohibit the
6 Court and the Special Master of the
7 parties from evaluating a Bid based
8 on certainty, and it would be
9 focused literally on only on price,
10 which, again, we don't think that's
11 how the evaluation criteria reads
12 or is supposed to read, nor does
13 the SPA.

14 But I don't think -- the
15 Special Master does not think this
16 issue is ripe right now. It could
17 be that the scenario or the
18 instance that the Special Master
19 does not change his Final
20 Recommendation.

21 But if he does, then, we see
22 no reason why Gold Reserve or
23 Dalinar -- everybody often gets the
24 hats confused, why they can't just

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1 put that briefing directly in their
2 briefing related to the updated
3 Final Recommendation, if any.

4 THE COURT: Okay. That was my
5 only question for now.

6 Anything else that you want to
7 add?

8 MR. BENTLEY: That's all, Your
9 Honor. Thank you.

10 THE COURT: All right.
11 Let me turn to Crystallex now.

12 MR. ESTRADA: Good morning,
13 Your Honor.

14 Miguel Estrada, from Gibson
15 Dunn in Washington, DC, for
16 Crystallex.

17 We agree with your
18 inclinations this morning, so we
19 don't have that much to say. We
20 also agree with the Special Master
21 that, you know, people should get
22 their Final Bids in fully final
23 form, and that they should have the
24 weekend to basically tell you where

1 they stand.

2 We agree with the Special
3 Master on the discovery points, as
4 well, and with you, that any
5 discovery that is permitted should
6 be limited, and extremely targeted
7 to any further changes in the
8 status quo.

9 With respect to the issue that
10 the Master raised about the
11 pending, you know, dispute, it
12 principally, you know, relates to
13 one validation witness that had
14 been propounded by Red Tree,
15 Mr. Clem Richter.

16 There had been an expert, you
17 know, report. Red Tree withdrew
18 him from his deposition after they
19 had cited they were not a Bidder.
20 We have no objection to him being
21 used at a Hearing if he's tendered
22 for the deposition very promptly.

23 You know, Venezuela, in our
24 view, has made the evaluation

1 request the central issue in the
2 hearing. And if somebody has an
3 expert who already has an expert,
4 you know, report, and he's
5 available to be, you know, deposed
6 in the window that we now have,
7 that may be one of the narrow
8 things that we can actually spend
9 our time on.

10 Our experience as a Sales
11 Process Party has been that most of
12 the discovery that has occurred in
13 the time that we did have was not
14 all that, you know, germane to
15 anything, and I think that's
16 obvious from the briefing that they
17 impractically used it.

18 And we expect that any
19 additional discovery that people
20 might propose in the window that we
21 might have would be similar.

22 So, for that reason, we are
23 with the Special Master in the
24 notion that any new discovery that

1 people want to conduct should be
2 reviewed with a joint discussion.

3 We are ready to go on the
4 schedule that the Court has
5 proposed.

6 One issue that I might want to
7 raise with the Court is whether it
8 might make sense to decide the
9 issue, the meaning of us brief with
10 respect to the termination issue in
11 the existing SPA, and whether there
12 should be an automatic termination
13 right if there is a resolution of
14 the 2020 that is unfavorable to the
15 existing financing of the Dalinar
16 SPA.

17 And that is to say because
18 under the schedule that the Court
19 has proposed it is still possible
20 that they would issue a ruling from
21 the Southern District of New York
22 in favor of the 2020 Bondholders
23 you have while some unicy in ruling
24 that is considering whether you

1 should approve a sale to Dalinar.

2 In that event, that would
3 still remain in dispute that hasn't
4 been, you know, solved on whether
5 there is a termination right, and
6 whether the sale is to Dalinar and
7 we'd still be in a limbo.

8 And one issue that I would
9 raise with you is whether that
10 issue should not be, you know,
11 ruled on sooner so that we know
12 going into the process, you know,
13 the rules of the road on that
14 issue, so that if there is a ruling
15 on that issue while the question is
16 being considered by Your Honor,
17 there would be a clear path
18 forward, both with the Sale Process
19 Party, the Creditor, and with the
20 Special Master as to what might be
21 done next.

22 THE COURT: Let me ask you
23 while you're there. I appreciate
24 you raising that.

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1 First off, I think, if I'm
2 following, I think you would agree
3 that question, if I were to set up
4 a briefing schedule on it, that
5 schedule shouldn't start until
6 after next Monday, or maybe the
7 following week so we know because
8 Special Master may, if he were to
9 recommend, say, a proposal that had
10 as part of its settlement 2020s --

11 MR. ESTRADA: Mm-humm.

12 THE COURT: -- I guess that's
13 the question: Would you still
14 think that a decision for me on
15 termination rights is important or
16 might not be important at that
17 point?

18 MR. ESTRADA: Oh, my issue --
19 I was actually going to take it in
20 the opposite way.

21 I was going to say that the
22 issue is actually fully briefed,
23 except for the, you know, reply
24 that you mentioned Dalinar had not

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1 had, is otherwise going to make it
2 fully briefed, whether there should
3 be a determination, so there would
4 not be any need for any further
5 briefing on the issue.

6 Everyone in this room has
7 already briefed it, except for the
8 reply that you mentioned at the
9 outset that they haven't had.

10 And, you know, the issue that
11 you're raising is important in
12 that, you know, the issue may not
13 be right if the Special Master
14 picked somebody else, and you
15 approve that other person if the
16 Special Master picks X or Y rather
17 than Dalinar, so the issue may
18 actually not arise.

19 And I guess what I would say
20 about that is that you will know by
21 the 25th whether that's the case.
22 They might come to you on the 25th
23 and say, "We're sticking with
24 Dalinar."

1 And I guess my submission is
2 that on the 25th to us that would
3 become a front-burner issue, is a
4 pure legal issue, whether you
5 should, you know, require the
6 Special Master to change the SPA,
7 and we would know on the 25th when
8 you hear from them whether they
9 have a Superior Proposal, whether
10 that issue is ripe, and by then the
11 issue be fully briefed.

12 And if they have a Superior
13 Proposal, then, the issue may
14 become irrelevant because you may
15 not need to consider that proposal
16 but if they don't, if they come to
17 the conclusion that none of the new
18 Bids is a Superior Proposal, then,
19 my submission would be that it
20 might be appropriate to consider
21 that issue ahead of the hearing
22 because it's a pure legal issue as
23 to whether the SPA should have
24 included that provision from the

1 beginning.

2 THE COURT: Okay. Thank you.

3 MR. ESTRADA: Thank you, Your
4 Honor.

5 THE COURT: All right.

6 Conoco Phillips.

7 MR. CASSEL: Good morning,
8 Your Honor.

9 Michael Cassel, Wachtell,
10 Lipton, Rosen & Katz, for Conoco
11 Phillips.

12 I'm in the fortunate position
13 of being able to be in complete
14 agreement with Mr. Estrada and the
15 Special Master and the Court's
16 Updated Inclinations.

17 Conoco wants this process to
18 move forward as expeditiously as
19 possible. We think these Updated
20 Inclinations help do that.

21 With respect to the two points
22 that were raised during the
23 Hearing:

24 We are done with the

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1 August 22nd deadline for -- I think
2 you call it Superior Proposal
3 consideration by the Special
4 Master, and, then, following that
5 deadline the public docket
6 procedure that was in line so we
7 can it the 22nd. That way the
8 Special Master can have the
9 weekend. It makes good sense.

10 And, secondly, if the Special
11 Master does adhere to the
12 Dalinar/Gold Reserve Bid, we would
13 be okay with the termination issue
14 being decided at that point as
15 Mr. Estrada suggests.

16 Obviously, if he brings us a
17 different Bid, then, it may be
18 moot.

19 THE COURT: Okay.

20 MR. CASSEL: And with that,
21 I'm happy to answer any questions,
22 otherwise happy to reserve
23 rebuttal, if need be.

24 THE COURT: No questions at

1 this point.

2 MR. CASSEL: Thank you, Your
3 Honor.

4 THE COURT: Let's turn to the
5 Dow Parties.

6 Good morning.

7 MR. EIMER: Good morning, Your
8 Honor. Nate Eimer, of Eimer Stahl,
9 on behalf of PDVH and Citgo.

10 It probably won't surprise you
11 that we disagree with your
12 inclination.

13 I know you're not -- you would
14 be disappointed in what I say, but
15 I do believe that at this point
16 having sort of suffered with the
17 2020s for years now being this
18 close to resolution, and it having
19 a multi-billion dollar effect on
20 the outcome, it seems to me the
21 prudent course would be to wait for
22 the ruling before we have the
23 Hearing.

24 You know, we, PDVH and Citgo,

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1 have not asked for any of these
2 extensions to date. We've
3 supported some of them, but we're
4 not the movement. And it has been
5 events that have changed here, and
6 it's caused, I think, by this Sales
7 Process.

8 But I think what we're facing
9 here is even more delay if we speed
10 the hearing up because there are
11 several outcomes that result from
12 the 2020s going in the other
13 direction.

14 So right now, I think on the
15 public record at least, there are
16 four -- it seems like four Bidders
17 floating around.

18 There's three who seem to have
19 either putting together or have put
20 together a TSA. And those two TSAs
21 involve about \$2 billion in value
22 being spent just on the 2020s.

23 And, then, we have the Gold
24 Reserve Bid that doesn't spend any

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1 money, but has 180 -- I'm sorry,
2 \$1.8 billion in a highly confident
3 letter from J.P. Morgan set aside
4 to deal with the 2020s.

5 So if the Special Master were
6 to go forward and make a
7 recommendation of one of the three
8 that appear to have \$2 billion
9 committed to the 2020s, and, then,
10 we have the Hearing in September,
11 and Judge Failla rules against the
12 2020s, we have \$2 billion in value
13 that should have gone to pay off
14 Creditors, and for the benefit of
15 PDVSA Republic as the Debtor here,
16 which would be paid for nothing to
17 their 2020s, and I think Your Honor
18 has already said that that -- I
19 don't know, I forgot your exact
20 phrase, and I'm sorry, but I think
21 it's something like a manifest in
22 justice to see \$2 billion paid for
23 nothing. I don't know if that's
24 the right phrase you used. I don't

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1 recall. But it certainly would be
2 unfair.

3 And Your Honor couldn't using
4 the Special Master's word "pivot,"
5 pivot back to a Gold Reserve Bid
6 because now three Bidders who are
7 committing \$2 billion in value to
8 pay off the 2020s, have those
9 \$2 billion to Bid against Gold
10 Reserve.

11 And, so, it's not like even
12 though you probably won't rule
13 based on your briefing schedule
14 until after Judge Failla rules,
15 we'll know what the Bids look like
16 if the 2020s lose.

17 So it does seem to me -- and I
18 understand the Special Master's
19 desire to stop having to deal with
20 these Bids, but that is certainly
21 what he was retained for. I
22 understand sort of accelerating, if
23 you want to call it that, having
24 Special Master make up his mind in

1 some form, as Your Honor has laid
2 out, and I have one maybe tweak on
3 that.

4 And my only concern about that
5 is there are Bidders who might Bid
6 but don't want their identity known
7 on the public record until their
8 Bid is approved or recommended at
9 least.

10 And, so, I appreciate Your
11 Honor saying that Citgo is --
12 basically, Citgo's confidential
13 information needs to be redacted.
14 I would also ask if Your Honor is
15 going to do that, that on request
16 of a Bidder who wants to remain
17 anonymous until its Bid is acted
18 upon, that Your Honor allow that to
19 happen as well.

20 But in any event, I'm not so
21 concerned about the timing for the
22 Special Master selecting his Bid
23 and making his recommendation as I
24 am letting the process play out

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1 because there's \$2 billion in value
2 directed at a claim that may be
3 valueless, at least Judge Failla --

4 THE COURT: Well, let me
5 interrupt you there --

6 MR. EIMER: Yes, sir.

7 THE COURT: -- because, of
8 course, I've been thinking a lot
9 about those different purchasing
10 mutations. I'm sure many of us
11 have.

12 I fully respect Judge Failla
13 and all District Judges, of course,
14 but, end of day, her ruling,
15 whatever it is, expected by
16 September 30th, is not, I assume,
17 going to be the last word on the
18 2020s. It may not even be the last
19 word from her.

20 I would expect there may be
21 litigation over a stay of whatever
22 she has ruled, litigation over a
23 possible injunction depending on
24 what she rules, and, then, of

1 course, on appeal. So a roundabout
2 way of saying I -- and I know when
3 I sit down and write my opinion,
4 I'm going to regret having said
5 this, but it's hard for me to
6 imagine that if I write an opinion
7 that doesn't itself have to deal
8 with are the 2020s likely to be
9 valid or likely to be invalid
10 because that question will just not
11 have been in any unreviewable way
12 been resolved. In any timeframe
13 that I'm anticipating, I'm going to
14 be issuing my own opinion.

15 And, so, if that's significant
16 -- if that premise is accurate, and
17 you can certainly challenge it, it
18 seems to me I'm going to have to
19 deal with the impact of the 2020s
20 under all of their possibilities,
21 and, so, that does not seem like a
22 persuasive reason, as I indicated
23 this morning, for me to slow things
24 down because it's not going to help

1 me at the end of the day.

2 I'm going to have to think of
3 a world where 2020s are valid, and
4 as well in a world where they're
5 not valid regardless of what
6 Judge Failla says.

7 Can you help me on that?

8 MR. EIMER: Yes, hopefully I
9 can. I think you're right. There
10 probably are going to be appeals
11 and probably motions filed, which
12 are probably Judge Failla. But
13 what does change and what we've
14 already seen change is another one
15 of these contingent risks is the
16 litigation risk analysis, and
17 that's really what's being talked
18 about.

19 So \$2 billion right now
20 apparently is somebody's value of
21 those claims given the likely
22 outcome, otherwise it would be
23 2.9 billion, which is the full
24 value.

1 The 2020s lose in front of
2 Judge Failla, and she writes a
3 strong opinion as to why they
4 lose -- why they lose. And if the
5 United States Government comes in
6 with a statement of interest as
7 she's directed them to do, I think
8 very shortly, and support what we
9 think is the correct answer, the
10 deference is due to the sovereign
11 about the interpretation of its
12 law.

13 The litigation risk analysis
14 is likely to plummet, and the value
15 of that claim is going to plummet
16 from 2 billion to some much lower
17 number. And we're talking about a
18 lot of money here.

19 And if the risk -- litigation
20 risk analysis goes down from the
21 40 percent, I think it is right now
22 that we've already talked about, to
23 10 or 20 percent, that's a billion
24 dollar change in value. And we're

1 all talking about risk.

2 And we saw that happen with
3 the Alter Ego cases. I haven't
4 heard a word about the Alter Ego
5 cases since we won in front of
6 Judge Rakoff, and that case is on
7 appeal.

8 So the value of the Alter Ego
9 case is apparently now as close to
10 zero as a result of the very strong
11 opinion of Judge Rakoff. And that
12 has to be the result here, I would
13 think. If we win a very strong
14 opinion of Judge Failla, and the
15 2020s are held to be invalid,
16 people are going to notice that,
17 just as they noticed Judge Rakoff's
18 opinion, and it will be factored
19 into some value of that claim.

20 We're talking not just
21 hundreds of millions of dollars but
22 billions of dollars and it's going
23 to be decided in the next four to
24 six weeks. So it does have a

1 dramatic impact on the short term
2 of the value of this claim
3 regardless of what Special Master
4 thinks.

5 So if he wants to lock in sort
6 of belts and suspenders of TSA in
7 the next week or whatever the
8 schedule is here, okay, that's
9 fine. So now he's protected
10 himself on the downside, but he
11 doesn't have any protection on the
12 upside, and that's our question.

13 So to lock it is so that we're
14 having a Hearing over whether or
15 not -- whatever that latest
16 recommendation is on the 28th or
17 25th, without knowing whether or
18 not somebody is wildly overpaying
19 can take care of the 2020s doesn't
20 seem to be prudent.

21 And I know Your Honor feels
22 you want to get this over with, and
23 God bless, I understand that. But
24 we're talking about a month for

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1 making a real difference here in
2 value to these creditors.

3 It was interesting to me that
4 for the first time an out-of-money
5 creditor -- this creditor is out of
6 money, both to -- to any of the
7 Bids, Gold Reserve, which has the
8 highest value going to creditors,
9 which is Mundiales Valores, so
10 they're out of the money out of
11 everybody. And they came in and
12 they asked for October 20th
13 yesterday for the first time. The
14 first time you heard from them, and
15 that's because they know that the
16 only way they're going to get paid
17 is if the 2020s lose and freeze up
18 some all or some of that \$2 billion
19 to go into the Bid, and those Bids,
20 then, could pay them off.

21 They're in exactly the same
22 position Venezuela is, and that
23 there's going to be a real
24 difference here if the \$2 billion

1 is not locked up anymore, and it
2 shouldn't be locked up if they
3 lose.

4 So that's to me, Your Honor,
5 the issue that we confront, and I'm
6 sorry to disagree with your
7 inclination, but the -- it just
8 seems to me that we've been
9 worrying about this, and this issue
10 has been amplified for so long.
11 The security that the 2020s have
12 had, which is the Pledge Agreement,
13 hasn't changed throughout the
14 entire years we've been here. But
15 the trading values of 2020s have
16 gone from pennies -- literally
17 pennies on the dollar to 90 cents
18 on the dollar because of the
19 position that the Special Master
20 has taken.

21 And you can see -- and we put
22 it in our brief that we submitted a
23 week ago that the trading value --
24 excuse me, went from next to

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1 nothing to 90 cents, as soon as the
2 Sales Process started and as soon
3 as the Special Master's counsel
4 said it was a gating item that the
5 2020s had to be paid before we
6 could sell this stock.

7 And that assurance has put
8 them basically in the driver's
9 position of this entire proceeding,
10 and it's been unfair, I think, to
11 those creditors who are out of
12 money and to the Venezuela and
13 PDVSA to suffer with that because
14 the position of 2020s has been so
15 amplified through the statements
16 that have been made.

17 So I think resolution, which
18 is a matter of weeks, and I
19 understand Your Honor wants to get
20 this done with, but it's a matter
21 of weeks away to get -- you know,
22 we can do lots of depositions. We
23 can do briefing.

24 Your Honor has put us on a

1 pretty short leash on a lot of
2 briefs before, so we can do that
3 again. And there is a dispute
4 about what Red Tree is going to get
5 to do.

6 They've got two experts that
7 they think they can call that they
8 didn't -- and without providing for
9 the proper discovery before under
10 the schedule you had, and we'll
11 dispute that as a side issue.

12 But the basic issues is a
13 multi-billion dollar issue on the
14 2020s.

15 THE COURT: But it also seems
16 to me at the -- at a September
17 Hearing, maybe there's a world in
18 which we don't complete everything
19 as it were maybe waiting for
20 Judge Failla's ruling.

21 I don't know. Maybe we need
22 one day of a trial in October, but
23 Mr. Wisenberger, for instance, why
24 not take his testimony on the 15th,

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1 or whatever that Monday is?

2 MR. EIMER: That's fine.

3 THE COURT: Therefore a number
4 of issues that I think that I'm
5 just inevitably going to have to
6 confront no matter what happens.

7 Do you agree with that in
8 principle?

9 MR. EIMER: I do agree with
10 that.

11 Mr. Wisenberger is going to be
12 talking about the Sales Process
13 regardless of what the Bid is,
14 unless we get to a Bid that we
15 think is fair and reasonable, but
16 that's a different issue.

17 To me, what I think needs to
18 with thought about here is the fact
19 that if the 2020 risk is either
20 eliminated or substantially
21 reduced, it will free up money to
22 increase Bids, so we'll be having a
23 Hearing in September about Bids
24 that might not be actionable at

1 all, because they should be
2 supplanted by later Bids, either
3 that or the Bid that's on the
4 table, which may have TSA in there,
5 should be at that point manifestly
6 unfair because \$2 billion would be
7 allocated to pay off claims that
8 Judge Failla said are not valid.

9 So, okay, there's a risk, but
10 there is some validity there, but
11 it's not 2 billion. Maybe it's a
12 few hundred million. I don't know.

13 THE COURT: But doesn't the
14 process I've outlined, plus the
15 briefing you've already filed allow
16 you in the form of an objection to
17 make that kind of argument?

18 MR. EIMER: It does
19 absolutely, but we won't -- it would
20 be in the abstract. We won't know
21 at that point in September.
22 Necessarily, Judge Failla can rule
23 next week, but necessarily we won't
24 know by mid September what she

1 rules so we'll be doing it in the
2 abstract.

3 And my bigger point is,
4 though, that there should be more
5 bidding, that what happened --
6 whether the Special Master involves
7 himself or not or is just put on
8 the docket, people will have
9 another \$2 billion or some chunk of
10 that \$2 billion to come forward and
11 Bid, or they would be confronted
12 with having to do that at all.

13 So Gold Reserve may come out,
14 and they've got 1.8 billion in
15 highly confident financing that has
16 to come out. So we can certainly
17 take it in pieces.

18 Mr. Wisenberger's prepared to
19 testify, sure, but the question is
20 to testify about, what's the Bid
21 that's being addressed? And that's
22 my bigger question. I think the
23 Bids are going to change if the
24 2020s are not commanding a

1 \$2 million payoff.

2 And that's the issue. It's
3 not so much about when we can put
4 in Mr. Wisenberger as soon as he
5 gets back from whatever he is right
6 now, but that's a different
7 problem.

8 To me, the real issue and the
9 thing that we want to do is
10 maximize value. And that value
11 maximization has to occur after a
12 ruling. And maybe if we lose that,
13 and, then, whatever's locked in by
14 the Special Master is there, that's
15 fine.

16 And that's why I'm saying if
17 he makes a decision now and thinks
18 having a TSA is a Superior
19 Proposal, assuming Gold Reserve is
20 wrong on their interpretation of
21 the SPA, okay, that's fine.
22 They're got recommendation. But
23 that recommendation won't live,
24 won't survive, and we'd have to go

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1 back to new Bidding if we have the
2 Hearing before the ruling.

3 THE COURT: Some of the
4 briefing -- I think it was over the
5 weekend -- suggested if the Special
6 Master says he has a Superior
7 Proposal next week, and that
8 Superior Proposal includes a TSA
9 with the 2020s, that some parties
10 to all of that may want to move for
11 a stay in the Southern District of
12 New York.

13 MR. EIMER: Yep.

14 THE COURT: Do you have a
15 position on whether your clients or
16 anybody else that may be a party on
17 the other side in New York would
18 join in request for a stay?

19 MR. EIMER: Well, we certainly
20 wouldn't join in a request. I
21 think it's essentially almost a
22 fraud on the Court. What they
23 really want to do is conceal from
24 your that they don't have a valid

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1 claim, and they want to do that by
2 moving for a stay.

3 Now, first of all, I don't
4 think they're entitled to a stay.
5 Like, under no circumstance would
6 they be entitled to a stay. But
7 most obviously, their claim is not
8 being subtle, Your Honor.

9 The only thing they're doing
10 is agreeing not to enforce their
11 pledge or releasing their pledge,
12 but they're claiming it's PDVSA on
13 the underlying bonds is still
14 alive.

15 And, so, the validity of those
16 bonds is still going to be
17 litigated in Judge Failla's
18 courtroom because she can't just
19 stop it forever. And I don't know
20 what cause she would have to stop
21 it even in the first instance,
22 other than to conceal from you the
23 fact that paying them \$2 billion is
24 a manifest of justice.

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1 So, yes, we would oppose that,
2 absolutely.

3 THE COURT: And you did, I
4 think, address this, but I want to
5 make sure you're fully heard on the
6 Unsolicited Bids, how I should deal
7 with Unsolicited Bids going
8 forward.

9 My understanding is that you
10 don't object to an outline that I
11 amended to indicate that the
12 Unsolicited Bidder could, if they
13 think they have good cause to do
14 so, some language like that, redact
15 their own identity at least
16 initially.

17 MR. EIMER: Yes, that's
18 correct, Your Honor.

19 I understand the Special
20 Master's position. I think he's
21 been put here to analyze these
22 Bids, but if an Unsolicited Bid
23 comes in and he's not dealing with
24 it and we believe it's a Superior

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1 Proposal because it provides more
2 money to creditors, then, I assume
3 we would move the Court to direct
4 the Special Master to address that
5 cognizance of it.

6 So I think that's not
7 something that we necessarily
8 propose, no.

9 THE COURT: Okay.

10 Anything else you want to be
11 heard on?

12 MR. EIMER: No. Thank you for
13 the time, Your Honor. I appreciate
14 it.

15 THE COURT: Good morning.

16 MR. GARVEY: Good morning,
17 Your Honor.

18 George Garvey, for the
19 Republic and EMS, we join in
20 Mr. Eimer's comments. I don't have
21 anything to add.

22 THE COURT: Okay. Thank you.

23 MR. GARVEY: Thank you.

24 MR. PERLA: Good morning, Your

1 Honor.

2 Juan Perla, of Curtis,
3 Mallet-Prevost, Colt & Mosle.

4 We also join in what Mr. Eimer
5 has said. I would add only that
6 there really is no prejudice to the
7 others from waiting until
8 October 20th because if there is a
9 Bid that contains the TSA with the
10 2020s, it isn't something that they
11 can act on in any event, until at
12 least December 20th when the
13 suspension of the general license
14 file would expire.

15 So there's really nothing that
16 we are rushing towards here that
17 would be able to happen if we
18 waited until October 20th anyway.

19 THE COURT: Okay.

20 MR. PERLA: Thank you.

21 THE COURT: All right.

22 We will turn to the
23 Dalinar/Gold Reserve Consortium at
24 this point.

1 MR. KIRTLAND: Good morning,
2 Your Honor.

3 Matt Kirtland for Gold
4 Reserve/Dalinar Energy.

5 Thank you for the opportunity
6 to be before you this morning to
7 discuss what we see are fundamental
8 issues, both to protect our clients
9 rights and achieve a
10 value-maximizing transaction.

11 We disagree with Your Honor's
12 inclination to hold the Sale
13 Hearing on the 15th primarily
14 because it does not allow for
15 resolution of what we have said in
16 our over-the-weekend and previous
17 submissions is a critical threshold
18 issue.

19 The suggestion by the Special
20 Master that the issue is not right,
21 and, then, could be addressed in
22 briefs that come in the event the
23 Special Master chooses to designate
24 a different or different Bid as a

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1 Superior Proposal, we think misses
2 the point, Your Honor.

3 Under the Bidder Protections
4 ordered by Your Honor,
5 January 27th, better than reflected
6 in the SPA, I'll get to this point
7 about whether the SPA is or is not
8 effective or at least binding on
9 the Special Master.

10 Under the Bidder Protections
11 ordered by the Court, a fundamental
12 rule of the topping period was that
13 if a Bidder such as my client
14 incurred time and expense to submit
15 its final best offer, and,
16 therefore, become a Recommended
17 Bids that two things would happen.

18 One, no further Bids or
19 engagement with any convening
20 proposal would happen voluntarily
21 be the Special Master.

22 And, two, any Unsolicited
23 Proposals that came in had to meet
24 an overbid minimum that was above

1 the purchase price of the Final
2 Recommended Bid.

3 The concept, Your Honor, as
4 discussed in January, and ordered
5 by the Court, was that Stalking
6 Horse Topping Bid. Once you're at
7 the Topping Bid, then, the Topping
8 Bid, the Final Recommended Bid, is
9 only displaced in the event it's a
10 higher-priced Bid.

11 It was Gold Reserve supported
12 by Rusoro Mining. We requested
13 this Bidder Protection, and it's
14 critical, Your Honor. My client
15 has incurred tens of millions of
16 dollars in fees and expenses in
17 order to obtain the financing
18 commitments necessary to have its
19 financial actionable Bid.

20 The only it did that was
21 because of precisely this Court
22 ordered Bidder Protection, and for
23 an attached judgment creditor that
24 means that the Unsolicited

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1 Proposal -- we're at 7.3 billion --
2 has to come in higher.

3 Special Master can modify the
4 overbid minimums as discretion to
5 lower but not eliminate, Your
6 Honor, not eliminate, and certainly
7 not make negative.

8 This protection specifically
9 litigated, specifically ordered by
10 Your Honor, and we made it
11 abundantly clear in our submissions
12 and we think it was equally clear
13 in all the other parties'
14 submissions, and the Court's Order
15 that these were the rules of the
16 road. Why?

17 Because the idea was that if
18 the topping period worked as it
19 should have, Your Honor, there
20 would be no higher Solicited
21 Proposal. The idea because, as the
22 Court said and the Special Master
23 admonished all of us, all of us
24 Bidders during the topping period,

1 "you must put your best foot
2 forward now." Why?

3 So the final Recommended Bid
4 would be the Final Bid, and, then,
5 we march to the Sale Hearing in six
6 weeks, and it's then we're taking
7 discovery and putting in the
8 extensive briefing in advance of
9 the Sale Hearing on that Final
10 Recommended Bid.

11 The concept of an Unsolicited
12 Bid coming in during the no shop
13 period where the Special Master is
14 strictly prohibited from doing
15 anything to incentivize the
16 Competing Proposal, anything, was
17 exactly this idea. But if you're
18 going to put one in, in the
19 non-solicitation period, it has to
20 beat the price of the Final
21 Recommended Bidder.

22 For an attached judgment
23 creditor, like Gold Reserve, who
24 has been pursuing enforcement of

1 this judgment for over a decade,
2 this was critical because that
3 means at worst we, of course, would
4 prefer Gold Reserve with its
5 Consortium partners would prefer to
6 own the shares of Citgo, but at the
7 worst our judgment is paid.

8 Make no mistake, Your Honor,
9 what is being the reason why
10 today's Sale Hearing was postponed
11 was because a submission of a Bid
12 in which our client would receive
13 nothing on its judgment and
14 absolutely zero. It is
15 \$1.5 million below.

16 The value of the Amber Energy
17 Bid at 5.8 is exactly lower than
18 the value of our judgment and the
19 Bidder after us, Siemens Energy,
20 with the Special Master
21 incentivized for us to get them to
22 join our Bid to increase our price.

23 And why they did do that?
24 Again, why did Siemens join our

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1 Bid? A lot of cost involved there,
2 millions of dollars, and they gave
3 up material things on their
4 judgment because the worst case
5 scenarios were topped. Our
6 judgments are paid in cash.

7 This was the entire reason,
8 Your Honor, in January and February
9 we had extensive litigation on just
10 this question, and many other
11 related questions.

12 I'm sure Your Honor recalls
13 the extensive discussion on noncash
14 consideration and whether it could
15 or could not be crammed down on
16 Senior Creditors by the Junior
17 Creditor. That entire discussion
18 also makes no sense. There's no
19 logic if in an unsolicitation
20 period a lower price Bid can come
21 in.

22 THE COURT: But I recall
23 extensive discussions with you at
24 the stock and board stage about

1 whether 3 billion was higher than
2 7 billion, roughly speaking.

3 We had a whole-day Hearing on
4 a concept that, you know, to a lay
5 person might have seemed ridiculous
6 whether 3 is higher than 7, but it
7 was a real live issue in large part
8 because of the evaluation criteria
9 are not limited just to the
10 headline dollar price.

11 They also had always factored
12 in certainty of closing other
13 related concerns, which is just a
14 roundabout way of saying it seems
15 like -- well, I'm not -- even if
16 you're not asking me to rule on the
17 merits of your interpretation of
18 your rights, and I'm not doing
19 that, but it seems to me at least
20 one issue that at some point you
21 and I are going to have to deal
22 with is it's not clear to me that
23 anyone ever said that the only way
24 to exceed a Recommended Bid was to

1 solely look at the headline dollar
2 price, and most of your arguments
3 seemed to be overly simplistic on
4 that ground.

5 MR. KIRTLAND: With respect,
6 Your Honor, no. This Bidder
7 Protection is limited exclusively
8 to purchase price, meaning the cash
9 paid to Additional Judgment
10 Creditors.

11 A concept of certainty is a
12 separate evaluation criteria, and
13 it does not in any way undercut our
14 straight -- I would say
15 straightforward rather than
16 simplistic, but we do think it is
17 black and white, Your Honor. So in
18 some ways it is simplistic. We
19 think the rules of the road clearly
20 determined by the Court in the
21 January 27, 2025 Order --

22 THE COURT: Do you think I can
23 find that in the January 27th Order
24 that to even entertain another Bid

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1 at this point in process you've got
2 to start at I think it's 50 million
3 over, but some amount over your
4 headline 7-point-whatever-billion.

5 MR. KIRTLAND: That's our
6 entire argument, Your Honor.

7 THE COURT: But, again, I can
8 find that in my January 27th Order.

9 MR. KIRTLAND: Yes, Your
10 Honor. If you look primarily at
11 the nonsolicitation period, your
12 rulings, that's on paragraph -- I'm
13 sorry, that Pages 11, 12, 13, and
14 of DI 1554. And you'll see,
15 Your Honor, on Page 14, Bidder
16 Protection 5, the overbid minimum.

17 And, Your Honor, you're right;
18 we're not asking you to resolve the
19 merits of this. We think this
20 point has been completely distorted
21 in the over-the-weekend filings,
22 and we think Your Honor needs a
23 complete record on this point
24 because it's not just what Your

1 Honor ruled, but what he ruled
2 measured against because you were
3 looking at, Your Honor, multiple
4 pleadings from multiple parties,
5 but the proposal that Your Honor
6 adopted here that the overbid
7 minimum should go from the original
8 proposed 25, Special Master
9 proposed to the 50 that we at
10 Rusoro proposed, you have to get
11 the full context to understand why
12 it fully supports what we're
13 saying.

14 Then, Your Honor, then, after
15 Your Honor issued the 1554, this
16 provision then made its way into
17 the Bid Draft SPA because, as Your
18 Honor will remember, there was the
19 process where sent the material
20 terms and conditions and the
21 evaluation criteria and, then, a
22 Model SPA was proposed that
23 reflected those terms and
24 conditions.

1 And there was further
2 litigation as to how the Special
3 Master implemented Your Honor's
4 ruling into the Model SPA. It was
5 objected to. That objection was
6 resolved. That also confirms the
7 correctness of the point that we
8 are arguing.

9 THE COURT: But putting aside
10 the correctness or not, what is
11 wrong with the procedure that I
12 have outlined, which would, of
13 course, allow you to curt on this
14 issue. Certainly, it seems
15 straightforward to take your word.
16 You would be heard if next week the
17 Special Master says he's got a
18 Superior Proposal, and, then, let's
19 just say, you don't match it, and,
20 so, now you presume coming in. You
21 are an objecting party, at least
22 you have the right to be an
23 objecting party, in which case I
24 believe the argument would be part

1 of your objection.

2 But I would think even
3 alternatively if you remained the
4 Recommended Bidder, if you think
5 you have some cognizable injury
6 that I should hear about, even
7 though you're at the same time
8 asking me to adopt presumably the
9 still Recommended Bid, I think you
10 could still be heard on this.
11 There's nothing stopping you from
12 making the argument, and asking me
13 for whatever relief you think
14 you're merited.

15 Again, roundabout questions.
16 But why put your issue front and
17 center now and put everybody else,
18 everything else on hold until I
19 resolve it?

20 MR. KIRTLAND: Three points,
21 Your Honor, in response. Thank you
22 for that question.

23 The question is sort of why
24 now. Why not just take it up in

1 the course of objections.

2 Number 1, it boils down to our
3 match right. As the Special Master
4 has correctly stated, and as Your
5 Honor embedded into the Adjournment
6 Order, if the Special Master
7 determines that an Unsolicited Bid
8 is a Superior Proposal, and it
9 triggers a three-business-day match
10 right to the existing Final
11 Recommended Bidder, in this case
12 Gold Reserve and Dalinar Energy,
13 that match right, Your Honor,
14 arises from the same Bidder
15 Protections that Your Honor
16 ordered, which were embedded in the
17 SPA, but you only get to that match
18 right, Your Honor.

19 It's not the existence of any
20 Competing Proposal or any concept
21 of any something is better. It
22 comes from the defined terms of the
23 Bidder Protections ordered by the
24 Court and the SPA. And under those

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1 defined terms, it's only if the Bid
2 hits the overbid minimum that it
3 can only even be considered to be a
4 Superior Proposal. At that point,
5 it has to be higher or better, but
6 you don't get to that higher or
7 better until you have the trigger.

8 And, so, our match right, Your
9 Honor, which is critical to the
10 existing Bidder, it's also
11 litigated and approved in advance
12 of all of the Bidding, we would be
13 matching against an invalid
14 trigger.

15 The Court has to determine
16 what this issue before our match
17 right triggers because otherwise
18 we'd be matching an invalid
19 proposal. So what would happen
20 here, Your Honor, is we would move
21 to strike the notice of Superior
22 Proposal based on this argument.
23 And, then, we would have to
24 litigate that, and that would take

1 at least two weeks with a week for
2 Your Honor to decide this
3 objection.

4 This objection, Your Honor, is
5 no less substantive and no less
6 critical for the Sale Process than
7 the same objections that we have
8 just spent the last six weeks
9 litigating with extensive briefing,
10 opening, response, sur-reply in
11 advance of the preexisting Sale
12 Hearing.

13 This objection that we have is
14 equal, in my view, to the merit and
15 the significance of all of those
16 other objections rolled together.
17 While we have said it can be done
18 on something shorter than complete
19 regular briefing, it is critical if
20 this issue is resolved, as we sit,
21 an existing Amber Energy Bid, which
22 would be the potential
23 counter-designated Bid, would be
24 nonactionable.

1 In addition, Your Honor, to
2 Mr. Eimer's point, going forward
3 every other Bidder would know.
4 Again, we would say "the rules of
5 the road," and there wouldn't be
6 any further dislocation. People
7 would know you have to have a
8 higher price.

9 This was, Your Honor -- this
10 was, Your Honor, the widespread
11 understanding all any Additional
12 Judgment Creditors and potential
13 Bidders with which we, Gold
14 Reserve, were in communication.
15 After the final Recommended Bid,
16 you have to top that price to be
17 considered.

18 And the whole discussion when
19 Your Honor set the \$50 million
20 minimum, which could be varied, was
21 we didn't want what has just
22 happened to happen. That was for
23 an overbid, Your Honor. The idea
24 was, as we argued to the Court and

1 was accepted, not objected to the
2 Special Master, were three days
3 before the Sale Hearing.

4 Somebody puts in a Bid that's
5 \$20 million higher than ours. The
6 Special Master, then -- the rule is
7 they couldn't even consider it,
8 unless they came to you and
9 explained and exercised their
10 discretion, proved it to you,
11 perhaps, on briefing because by
12 definition an Unsolicited Proposal
13 during the Final Recommendation
14 period would restart everything.
15 It was completely disruptive. This
16 was exactly our point in our
17 January briefing, Your Honor.

18 So, in any event, going back
19 to why now, our match rights would
20 be irretrievably prejudice if we
21 don't resolve this issue first.
22 The only way around that, Your
23 Honor, is to reserve our match
24 rights after the Court resolves.

1 We don't think that makes
2 sense practically, but that's a
3 potential Band Aid solution, that
4 in the event that we proceed as the
5 Court has indicated, and in the
6 event we win on this point, then,
7 we would win. If we lose, we,
8 then, can exercise our match
9 rights. We can't be in a position
10 of having exercised or match rights
11 on the basis of potentially invalid
12 trigger.

13 And, Your Honor, just to bring
14 this home, this is not a minor
15 procedural point. It would take
16 potentially tens of millions of
17 dollars of additional expense to
18 match what potentially is a
19 counter-designated Superior
20 Proposal. This is an expensive
21 proposition, Your Honor. Those
22 days, you cannot get them back. So
23 that's Point 1.

24 Point 2, Your Honor, as to why

1 now, it leads to the October 21
2 dates. We see that with the
3 alternative dates that Your Honor
4 proposed, and the eminent ruling
5 from Judge Failla, sort of a
6 perfect storm of virtuous
7 circumstances. The time is there.
8 It is just one more month, as
9 Mr. Eimer said. We fully agree
10 with that.

11 We would have far preferred to
12 be having a Sale Hearing this week.
13 But given that we've lost this
14 week, and we're talking about a
15 one-month delay anyway, doesn't it
16 make sense to resolve this critical
17 issue now, not just for us but for
18 all future Unsolicited Bidders,
19 and, then, we cut off any argument
20 with respect to our friends from
21 the Venezuela Parties, who say that
22 the non resolution of this issue
23 depressed Bids. It's a perfect
24 solution. We have to time in the

1 schedule if we go to the later
2 dates. And, so, we suggest that we
3 should use it.

4 The third reason is pragmatic,
5 Your Honor. To raise the issue by
6 way of a messy motion to strike,
7 it's just not typical of the
8 regular order that Your Honor
9 applies to all briefing where the
10 parties have a fair opportunity to
11 be heard.

12 Strictly speaking, and I
13 suppose this is the motion that we
14 would bring in the event there
15 wasn't a defined briefing schedule,
16 is, we would move to strike the
17 Special Master's designation of
18 this alternative Bid as an
19 Unsolicited Competing Proposal.

20 As Your Honor knows, Special
21 Master came to Your Honor on this
22 past Monday and requested
23 permission under the terms of
24 Bidder Protections and the terms of

1 the SPA to engage with this
2 alternative Bidder as a -- they
3 positioned it to Your Honor as an
4 Unsolicited Competing Proposal. It
5 actually doesn't meet that
6 definition. So we would be
7 striking the Special Master's
8 ability to even engage with this
9 Bidder because that is consistent
10 with the Court's Bidder
11 Protections.

12 THE COURT: If I follow what
13 you're saying, that's a right you
14 think you have independent of
15 whether he deems that his Superior
16 Proposal. It's not even an
17 Unsolicited Competing Proposal
18 because of the top line price; is
19 that the argument?

20 MR. KIRTLAND: That's what the
21 Bidder Protections are, Your Honor,
22 yes.

23 THE COURT: Meaning you have
24 to right, in your view, right now

1 before he decides if he has
2 something superior?

3 MR. KIRTLAND: Correct, Your
4 Honor. This is the key point, and
5 I would like the opportunity to
6 clear this up.

7 In the non-solicitation period
8 for Final Recommendation of the
9 Sale Hearing, the only Competing
10 Proposals that can be discussed
11 with the Special Master are those
12 that meet the overbid minimum. The
13 Special Master then comes to Your
14 Honor and seeks permission to
15 engage, and Your Honor then does or
16 does not give him permission. This
17 was a specifically litigated and
18 obtained Bidder Protection exactly
19 to cutoff this sort of chaos and
20 disruption.

21 And, so, the original sin here
22 is in treating the Amber Energy Bid
23 based on what we've seen in this
24 one letter, and we don't know its

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1 terms, but assuming its price is
2 below the Gold Reserve Bid price as
3 a capital U, Unsolicited, capital
4 C, Competing, capital P, Proposal.
5 That's a defined term. That's
6 where the overbid minimum Bid
7 protection triggers.

8 THE COURT: Right. Okay.

9 So I think I'm following, but
10 the point being while you may have
11 additional concern as of, say,
12 Monday, if he says it's a Superior
13 Proposal, you think you've already
14 been harmed because he and maybe me
15 have given him permission to
16 engage, we have not complied with
17 the definition of Unsolicited
18 Proposals that you have reasonably
19 the Amber Bid is not a Solicited
20 Competing Proposal as the term is
21 defined.

22 MR. KIRTLAND: That's exactly
23 the point. I mean, 6.16(b) of the
24 executed SPA reflects the Bidder

1 Protection. The Special Master
2 shall not directly or indirectly
3 solicit, initiate, knowingly
4 encourage or knowingly facilitate
5 any proposal or offer that
6 constitutes or reasonably be
7 expected to lead to a Competing
8 Proposal.

9 This is an express dampening
10 of Competing Proposal. That's the
11 entire purpose of Bidder
12 Protection. Once you win the Final
13 Recommendation, you are in unless
14 your price is topped.

15 And then at 6.16(c), again,
16 this is a reflection of your Bidder
17 Protection that Your Honor ordered
18 in January. The Special Master has
19 to come to the Court and obtain
20 approval.

21 There's also, Your Honor,
22 another important point that has
23 sort of completely flown under the
24 radar here, although it was touched

1 on in the Special Master's
2 over-the-weekend briefing.

3 The final place is key Bidder
4 Protection is implemented as in the
5 termination provision of SPA
6 8.1(d), Special Master can only
7 terminate this SPA because of a
8 Superior Proposal subject to
9 approval by the Court.

10 And this came from a litigated
11 point, Your Honor, where we and
12 Rusoro came to the Court and said,
13 "Your Honor, any termination during
14 this period has to comply with
15 these non-solicitation provisions,
16 and, therefore, the overbid
17 minimums." So it is a threshold
18 issue, Your Honor.

19 So the final point is why not
20 just wait and see if the Special
21 Master designates a different Bid
22 that's superior, and, then, take it
23 up then. Maybe there's no harm.
24 Our point is it should be resolved,

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1 Your Honor, because even if they
2 stick with us what's to stop
3 someone else after our bid is
4 recommended on Monday or not
5 displaced, we're doing the same
6 thing.

7 The concept of the Unsolicited
8 Competing Proposal needs to be
9 higher in price, needs, in our
10 view, our respectful view, to be
11 reconfirmed by the Court. That is
12 the way we get to a value
13 maximizing transaction, Your Honor.

14 THE COURT: Going back to your
15 second point, without waiting for
16 Judge Failla, maybe it's a perfect
17 solution. I don't know if you have
18 anything to add to what Mr. Eimer
19 said, but I've shared with you my
20 sort of sense that under basically
21 every scenario I'm going to have to
22 figure out what impact the 2020s
23 have, if any, whether she says
24 they're valid or invalid because

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1 there's going to be more
2 litigation. Somebody's going to
3 argue to me that she got it right,
4 that she got it wrong.

5 How does it actually help me
6 to wait an extra month to see what
7 she said, or am I going to have to
8 deal with all of these different
9 permutations anyway?

10 MR. KIRTLAND: No, Your Honor,
11 no. There's a one-way door for
12 Judge Failla's decision. If she
13 decides the bonds are invalid, the,
14 quote/unquote, "litigation risk"
15 for the 2020s disappears. This
16 entire concept whereby Bidders have
17 put in lower Bids than ours
18 justified by the litigation risk is
19 driven off the concept of the 2020
20 Bondholders somehow seeking some
21 injunction. They cannot seek an
22 injunction with their bonds being
23 deemed invalid. There's no
24 mechanism that I'm aware of where

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1 just because you're appealing a
2 decision you can then get an
3 injunction in a District Court on
4 the basis of a right, that not only
5 been suspended by OFAC for the past
6 six years has just been determined
7 to be unlawful.

8 So that "litigation risk" goes
9 to zero, and the whole concept by
10 which we have just lost our Sale
11 Hearing, the lower-priced Bid, the
12 settlement with the 2020s
13 disappears entirely.

14 If Judge Failla had issued her
15 Order on February 28th, this year,
16 as opposed to September 30th, this
17 entire concept in this turn and
18 drag that we went through in this
19 stalking-horse period wouldn't have
20 existed because nobody would have
21 been able to come to the Court and
22 say, "Judge, there's a risk out
23 here about the 2020s, and we've
24 mitigated it, and we therefore

1 should have a \$2 billion loan
2 price," it goes away completely.

3 Now, if Judge Failla doesn't
4 invalidate the 2020s, then, we're
5 back into the discussion that Your
6 Honor described because there is
7 still the question of "what's the
8 risk," as we've said in our briefs.
9 If she rules in our favor, it
10 doesn't kill our financing. OFAC
11 has still stayed the exercise of
12 the pledge. It was all those
13 arguments that we've already
14 rehearsed.

15 But there is a minimum -- a
16 minimum, a 50 percent chance, that
17 she invalidates the bonds, and the
18 2020s disappear from this case.

19 THE COURT: I fully understand
20 you want a ruling on your legal
21 issue as soon as possible, but if
22 you can put that aside, just for a
23 second, any thoughts on what I also
24 discussed with Mr. Eimer about

1 going forward in September on at
2 least some of the issues that are
3 fully briefed, and the witnesses
4 are ready to come and you all are
5 probably ready to get to
6 examinations today.

7 MR. KIRTLAND: Honor, we have
8 our witnesses here in case you
9 would rule the case was to proceed
10 today.

11 Some of them, yeah. I mean, I
12 take the point, though, that
13 Mr. Wisenberger's testimony, as I
14 understood from his deposition, was
15 that procedural errors had
16 manifested throughout Your Honor's
17 Sale Process for the past three
18 years, many of them set up and
19 knocked down by Your Honor in full
20 briefing.

21 But in any event, the
22 consequence was a lower price. And
23 as evidenced of the lower price he
24 cited our price of 7.3 versus this

1 sort of anonymous non-risk way to
2 higher valuation from their other
3 expert.

4 If the Bids come in, I mean,
5 it could be solved by having
6 perhaps a rebuttal with
7 Mr. Wisenberger, but the point is
8 he's testifying to receive flaw in
9 the process because of a valuation
10 issue that might then be materially
11 changed, depending on how
12 Judge Failla rules.

13 But I do agree that a number
14 of these objections could be taken
15 up, and the Court would hear
16 preliminary evidence. We can do
17 that now without a change in, like,
18 the Superior Proposal on the 25th.
19 You don't need to have these couple
20 steps now to have that Hearing, and
21 we can use that Hearing, Your
22 Honor, on the 15th to have
23 in-person oral argument on our
24 issue. We could have it sooner

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1 obviously, but we could accomplish
2 a lot with those days, and it would
3 clear out a lot of the brush we've
4 been going into once we get
5 Judge Failla's ruling.

6 THE COURT: Yeah.

7 Anything else you want to add
8 in argument here on Dalinar, or
9 should I hear it separately from
10 other members of your consortium?

11 MR. KIRTLAND: I think other
12 members might want to be heard.
13 We're speaking only behalf of Gold
14 Reserve.

15 Your Honor, between the
16 October 20th and September 15th, we
17 did read the Special Master's
18 opening brief from the 16th DI
19 0292, and the Special Master does a
20 very nice job of explaining why the
21 October 21 to 23 dates are better.

22 I just would note in addition
23 to what Mr. Eimer said, and what
24 Mr. Bentley sort of prepared to

1 say, their discovery -- this is
2 primarily on Pages 2 to 3, they
3 talk about the practical --
4 impracticalities of proceeding on
5 the 15th.

6 They also, as the Special
7 Master writes, "An October Hearing
8 date would thereby avoid any
9 objections that the Parties did not
10 have sufficient time to develop the
11 factual record and express their
12 views on the updated
13 Recommendations.

14 After spending several years
15 on this Sale Process, the Special
16 Master believes the Court should
17 take a few additional weeks to
18 avoid any complaints that Parties
19 have not had sufficient time to
20 develop the record and a sufficient
21 opportunity to be heard."

22 We fully agree with that
23 position, as expressed two days ago
24 by the Special Master.

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1 And, then, in addition we have
2 our threshold issue, which could
3 neatly be resolved for the benefit
4 of everyone, we respectfully
5 submit, and if we went with the
6 October dates.

7 Thank you, Your Honor.

8 THE COURT: Other members of
9 the Dalinar Consortium to be heard
10 now?

11 MR. ZLUTICKY: Thank you, Your
12 Honor.

13 Nicholas Zluticky, for Koch
14 Minerals and Koch Nitrogen
15 International.

16 We have no objection to the
17 Court's Updated Inclinations. And
18 we don't really have anything
19 for --

20 THE COURT: You don't share
21 Mr. Eimer's position?

22 MR. ZLUTICKY: We take no
23 position on that.

24 THE COURT: Okay.

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1 Anything else?

2 MR. ZLUTICKY: Nothing
3 further. Thank you.

4 THE COURT: Thank you.

5 MR. BERGER: Good morning,
6 Your Honor.

7 James Berger, of DLA Piper,
8 for Rusoro Mining Ltd.

9 Your Honor, Rusoro also has no
10 objection to the Court's Updated
11 Inclinations at this point.

12 To the extent that there's a
13 conflict or perceived conflict
14 between the schedule that the
15 Special Master pointed out, which I
16 have a deadline of this Friday, as
17 opposed to the Court's
18 inclinations, we agree with the
19 Special Master that any further
20 Bids should be submitted by this
21 Friday.

22 We also want to note our
23 agreement that any further
24 discovery -- we also would say

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1 briefing, should be strictly, you
2 know, specifically restricted to
3 the issues for the Court in
4 connection with any new Bid.
5 Overall, we want to see the process
6 move as expeditiously as possible.

7 THE COURT: Thank you very
8 much.

9 And that's it for the
10 Consortium, right? Okay. All
11 right.

12 Well, why don't I stick to
13 that side of the courtroom.

14 Any others who want to be
15 heard?

16 Yes. I'm sorry. I'm on the
17 other side of the courtroom.

18 You want to be heard, but I'm
19 not ready to call on that side of
20 the courtroom yet. Thank you.

21 Good morning.

22 MR. CARTER: Good morning,
23 Your Honor.

24 Chris Carter of Morgan, Lewis

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1 & Bockius, on behalf of OIEG. OIEG
2 is supportive of the Updated
3 Inclinations from the Court, and
4 the position stated by the Special
5 Master, Crystallex, and Conoco.

6 As Mr. Stall stated also, we
7 still believe that the termination
8 requirement is necessary if the
9 current Dalinar date goes forward,
10 that issue should be resolved
11 sooner rather than later in the
12 case, if that is the one that goes
13 forward.

14 On the 2020s, as this Court
15 noted, there's no certainty that
16 those will be resolved in full by
17 the end of September. So delaying
18 will not be good, 100-percent
19 certainty, no matter what.

20 Contrary to what Mr. Eimer pointed
21 out, if the 2020s win, there's no
22 certainty that the Bid we have
23 today will be here tomorrow. So
24 there's on both sides, the waiting

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1 or delaying for a report folder.

2 And just as we and others have
3 argued for a termination right with
4 respect to the Gold Reserve Bid if
5 the 2020s win, there's no reason
6 that Venezuela Parties can't argue
7 that there should be a termination
8 right the other way if there's a
9 different day if the 2020s lose,
10 right.

11 If there's a TSA with 2020s
12 and a new Bidder that's going
13 forward, they could argue that
14 there should be a termination right
15 if the 2020s lose, and TSA.

16 So these are all arguments
17 that should be made before the 2020
18 decision in connection with the
19 Sale Hearing.

20 On the Dalinar Bid Consortium,
21 we agree with the Special Master
22 that the issues raised by the Gold
23 Reserve can be raised at the Sale
24 Hearing, because it ultimately goes

1 to whether or not Gold Reserve as
2 the best Bid or not. That's the
3 key issue at the end of the day.

4 OIEG has not been involved
5 with much of the back and forth
6 between Gold Reserve, the Special
7 Master, and these other potential
8 Bidders, but what we would see is
9 that expense reimbursement
10 provisions in the SPA are they're
11 to protect the Recommended Bidder,
12 Gold Reserve.

13 The Superior Proposal
14 provisions are there to protect the
15 Creditors in the process. They're
16 different things. So Gold Reserve
17 has, you know, the expense that
18 they would get if there's a
19 Superior Proposal out there.

20 It can't be the parties have
21 to ignore a Bid with better closing
22 certainty that we would argue for
23 this whole time in the Bids'
24 protective process and closing

1 certainty. So we would disagree
2 with Gold Reserve, and also suggest
3 that these are issues that are
4 arguments for or against whatever
5 Bid is being proposed at that
6 point.

7 And if an, you know,
8 alternative Bidder, if they believe
9 that their Bid is better, they can
10 make that argument at the Sale
11 Hearing.

12 THE COURT: Just to make sure
13 I heard you correctly, on the
14 expense reimbursement, though, OIEG
15 agrees that Gold Reserve is already
16 entitled to that, correct?

17 MR. CARTER: I want to take
18 the position that I believe that
19 the SPA says that there is that
20 overbid provision that includes an
21 expense reimbursement for Gold
22 Reserve.

23 So I would say that the way we
24 read the SPA is that if there's a

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1 better -- the severe proposal shows
2 that -- I believe that the SPA
3 provides for that expense
4 reimbursement for Gold Reserve.
5 It's not that entire purchase price
6 that Gold Reserve proposed, plus
7 the overbid amount has to be paid;
8 it's that there is, you know,
9 essentially a new breakup, you
10 know, the expense brief for Gold
11 Reserve.

12 THE COURT: Anything else?

13 MR. CARTER: That's all.

14 We hope to see in you
15 September.

16 THE COURT: What's that?

17 MR. CARTER: We hope to see
18 you in September.

19 THE COURT: Anybody else to my
20 right that wants to be heard?

21 (No response.)

22 THE COURT: It appears not.

23 Okay. All right.

24 I'm going to launch the docket

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1 here. If you want to come up, I'll
2 give you a couple of minutes.

3 Good morning.

4 THE WITNESS: Thank you, Your
5 Honor for giving voice to the
6 voiceless. I will be very brief.
7 I've come to this Court's
8 consideration a proposal of the
9 victims without prejudice based on
10 the jurisprudence and Jones
11 Mayville.

12 And we are proposing a
13 five-percent deductible for the
14 sale price in order to create a
15 trust equating the 9/11 trust
16 created for the victims.

17 We feel that, as you are
18 aware, during all of our
19 performance in the docket, we would
20 have suffered a great deal of
21 confiscation, like any Creditor
22 here, and according to Simon versus
23 the Republic of Hungary, this
24 confiscation has been a product of

1 the Alter Ego.

2 Also, we came late because the
3 people sharing the duty to report
4 this claim omitted in bad faith,
5 Mr. Padena, Chairman of the
6 Alden -- The Best of Alden was the
7 top Union leader of the victims
8 when the strike happens at the
9 Republic imperilling, and dismissed
10 all these workers out.

11 I just put that into
12 consideration. Thank you for the
13 opportunity, sir.

14 THE COURT: Thank you very
15 much. All right.

16 Others?

17 MR. BOLIAN: Good morning,
18 Your Honor.

19 Josh Bolian, for ACL1
20 Investments Ltd., and the other
21 Plaintiffs in Case Number 21-46.

22 I intend to briefly address
23 the point about Gold Reserve's
24 Bidder Protections claims.

1 We heard Gold Reserve counsel
2 say that their entire argument is
3 premised not on PSPA, which has not
4 yet been approved, but on Your
5 Honor's January 27th Memorandum
6 Order that regarded the Bidder
7 Protections, which is a DI 1554.

8 I wanted to note that in a
9 footnote that preceded the
10 discussion of Bidder Protections,
11 Your Honor wrote that -- quoting
12 Gold Reserve and Rusoro, "It is
13 Court approval of a Bid, either as
14 a Stalking Horse or a base Bid that
15 triggers the respective protections
16 and mere execution of an Agreement
17 with the Special Master, unless and
18 until the Court approves such
19 Agreement does not."

20 I raise that because it's
21 consistent with other Orders that
22 the Court had made before and after
23 that, that in terms of the SPA are
24 merely proposed until approved.

1 I don't take that note to mean
2 that the Bidder Protections that
3 Your Honor approved in late January
4 were meaningless or meaning
5 auditory. It was language that had
6 real consequences.

7 It has incorporated into the
8 approved Stalking Horse SPA, for
9 example, and for Gold Reserve
10 selected as the Stalking Horse who
11 would therefore be standing on
12 rather different footing than we
13 are today.

14 However, I'll note that where
15 Gold Reserve proposed as the
16 Stalking Horse, and if Gold Reserve
17 had proposed interpretation of the
18 overbid memo language that it's
19 advancing today, we would have had
20 a rather different debate back in
21 April about approving that SPA, and
22 I think that Creditors would have
23 resisted the notion for reasons
24 that Your Honor's well aware of,

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1 that a Bid to even be considered
2 must exceed the headline price of
3 Gold Reserve's Bid.

4 My last note on this is that
5 even were it true that there was a
6 Court Order that incorporated the
7 protections that Gold Reserve
8 claims here, there would still be
9 the possibility of pursuing the
10 next steps that were laid out in
11 Your Honor's inclinations this
12 morning, and that the Special
13 Master by and large agrees with.

14 I don't understand the dispute
15 to be about what the Special Master
16 may or may not do unilaterally.
17 Rather, the question is whether the
18 Special Master may ultimately, if
19 he decides to do so, terminate the
20 Dalinar SPA in favor of a different
21 proposal.

22 Yes, the Special Master has
23 recognized that you will request
24 Court approval to do that. In so

1 requesting, the Court would be
2 given the opportunity, because
3 there is no final Order yet in this
4 proceeding, to construe, to revise,
5 or even to revisit any prior Orders
6 on which Gold Reserve might have
7 claimed to rely.

8 Last point with respect to
9 Gold Reserve's claim for reliance,
10 we would submit that its claimed
11 reliance would not be reasonable in
12 view of the Orders going back to
13 the Sale Procedural Order itself.
14 It made clear that an SPA is not
15 binding until approved.

16 And to the extent that Gold
17 Reserve is relying on the language
18 incorporated into its SPA, I'll
19 note that Gold Reserve's on
20 counterparty, the Special Master
21 disputes Gold Reserve's
22 interpretation of that language.

23 ACL would agree, and we'll
24 submit briefs when it comes to

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1 that. But it's never been so clear
2 and not worthy of the ironclad
3 reliance that Gold Reserve now
4 claims.

5 THE COURT: Thank you.

6 MR. BOLIAN: Thank you, Your
7 Honor.

8 MR. FORCIER: Good morning,
9 Your Honor.

10 Justin Forcier, on behalf of
11 Siemens Energy.

12 Siemens Energy joins in Gold
13 Reserve, their arguments, and I
14 have nothing else to add.

15 THE COURT: Thank you.

16 MR. FORCIER: Thank you, Your
17 Honor.

18 MR. RECHER: Good morning,
19 Your Honor.

20 Jeff Recher, from Paul, Weiss,
21 on behalf of the 2020 Noteholders.

22 The 2020 Noteholders have no
23 objections, no issues with the
24 Court's Updated Inclinations as set

1 forth this morning.

2 As the Court is thinking about
3 next steps, as the Court knows, the
4 2020 Bondholders have a settlement,
5 a Transaction Support Agreement,
6 with Amber Energy.

7 We did want to make sure the
8 Court was aware that that TSA
9 contemplated that if Amber is the
10 Recommended Bid, the 2020s would
11 have certain obligations to seek a
12 stay of the SDNY action. We are
13 obviously not at that point yet,
14 and, of course, any stay in that
15 action is not up to the parties,
16 but we did want to make sure that
17 the Court was aware of that
18 obligation in our agreement.

19 I will say that the suggestion
20 from the Venezuela Parties that a
21 stay application would be -- I
22 think it was referred to as "a
23 fraud on the Court," and I believe
24 I heard a suggestion that if the

1 Southern District were to grant
2 such a stay, that would be
3 tantamount to Judge Failla
4 concealing something from this
5 court. Those statements are
6 outrageous.

7 The 2020s have every
8 confidence in their position in the
9 SDNY litigation. The stay request
10 contemplated by the TSA is merely a
11 provision that captures the fact
12 that settling parties went back and
13 forth, negotiated agreements, had
14 gives and takes on each side and
15 it's designed to preserve the
16 status quo. And, as I said, that's
17 a matter for Judge Failla to decide
18 if it comes to that, if such an
19 application is made.

20 But, again, you know, I get
21 that anyone who is trying to
22 defraud anybody for making a
23 request for relief to a Court, that
24 any opposing party is free to

1 propose is absurd. All right.

2 Two other statements I heard
3 made by the Venezuela Parties, and
4 I just wanted to briefly point out
5 because they are incorrect.

6 There was an assertion -- I
7 believe the trading prices for the
8 2020 bonds were impacted in some
9 way by the Special Master's
10 positions vis-a-vis the 2020
11 Bondholders. That's just simply
12 not the case.

13 The other statement made by
14 the Venezuela Parties, I believe,
15 was the suggestion that if there is
16 a settlement that becomes effective
17 with Amber, that ultimately is the
18 Bid that is recommended and
19 ultimately approved, that it
20 wouldn't impact the Southern
21 District of New York litigation.
22 That's just not right.

23 We do understand that Amber
24 intends, if the agreement does

1 become effective, to extinguish all
2 of the notes that are exchanged
3 that would have a serious impact on
4 what, if any, issues would remain
5 for Judge Failla to decide.

6 We certainly do intend to let
7 her now about developments in this
8 case, and she, of course, can
9 decide what she wants to do in her
10 own case, but we wanted to make
11 sure the Court was clear on all of
12 those facts --

13 THE COURT: Maybe this is what
14 you're trying to explain to me, but
15 is it a possible outcome in New
16 York that you have a settlement,
17 you get paid on the settlement, and
18 yet you still have your claims,
19 which is what's being suggested by
20 some of the parties here?

21 MR. RECHER: I understand that
22 that's incorrect. So, as I
23 understand the mechanics of the
24 settlement, if the settlement

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1 becomes effective the notes are
2 exchanged to Amber Energy, and
3 Amber Energy then has a decision to
4 make with them.

5 I understand the intent to
6 extinguish those notes. Although
7 exactly how that process would work
8 is something that I think Amber
9 Energy is making. That's my
10 understanding. If the notes --

11 THE COURT: The notes that are
12 sent out in the TSA?

13 MR. RECHER: I would want to
14 confirm, Your Honor. I don't know
15 that it is. I need to confirm that
16 point. But obviously to the extent
17 the notes are extinguished, it
18 would extinguish any claims
19 associated with those notes.

20 THE COURT: Okay.

21 Anything else you want to say?

22 THE WITNESS: No, Your Honor.

23 Thank you very much.

24 THE COURT: Okay.

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1 Good morning.

2 MR. FORASTIER: Good morning.

3 Good morning, your Honor.

4 I'm Miguel López Forastier,
5 from Covington and Burling, on
6 behalf of Valores Mundiales.

7 I'll be brief. Valores
8 Mundiales joins Gold Reserve in
9 respect of its position of the Sale
10 Hearing date. So that you're aware
11 of my client situation, we are
12 right now out of the money under
13 the winning Recommended Bid.

14 My client is a company that
15 close to 20 years ago was
16 expropriated of all of its assets
17 in Venezuela. They still have that
18 claim, that judgment. We are not a
19 hedge fund, and our only chances of
20 getting paid is if this Sale
21 Hearing is postponed until October,
22 and the reason for that is it has
23 been moot stated already quite
24 eloquently by Mr. Eimer is that the

1 financial analyses completely
2 changes the litigation if
3 Judge Failla decides that those
4 bonds are not valid.

5 We believe that that will
6 unlock probably at least a billion
7 dollars or more in financing
8 available to potential Bidders, and
9 that could make a difference on
10 whether our client gets paid or
11 not. Our client has been paying
12 for the Special Master fees
13 diligently. Last week we received
14 a bill for \$700,000, which we will
15 pay.

16 For that reason, Your Honor,
17 we respect your inclinations, but
18 we think that in additional
19 material would not materially
20 change the course of the
21 proceeding, but it could materially
22 change whether our client gets paid
23 or not.

24 Thank you, Your Honor.

1 THE COURT: Thank you.

2 Anybody else on the left side
3 that wants to be heard?

4 (No response.)

5 Okay.

6 Let's at least briefly try to
7 get at least the Special Master and
8 the Sale Process Parties a chance
9 for a brief anything else you may
10 want to say, and, then, may have an
11 opportunity for others briefly, but
12 let's start with the Special
13 Master.

14 MR. BENTLEY: Thank you, Your
15 Honor.

16 Chase Bentley for the Special
17 Master.

18 There are three points that I
19 want to address.

20 One, regrettably, I should
21 have brought up when I was up here
22 last. It's a more of a preview or
23 a clarification. The other two are
24 the responses. One's the Venezuela

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1 Parties, and one's to Gold Reserve.
2 I'll address the quicker ones
3 first.

4 The matter that I wanted to
5 preview for you is that pursuant to
6 the terms of the Gold Reserve SPA,
7 the Special Master cannot terminate
8 that SPA in order to enter into a
9 different SPA with (inaudible) --
10 until the Court has approved that
11 termination.

12 So when we envision, you know,
13 potentially filing an updated
14 recommendation, again, we're in the
15 scenario where we were ceased in an
16 Unsolicited Competing Proposal, and
17 have to determine that that Bid is
18 a Superior Proposal, had given Gold
19 Reserve its match right, and Gold
20 Reserve, then, attempts to match
21 and fails to do so, or refuses to
22 attempt to match, then, the Special
23 Master makes a determination that
24 that Superior Proposal continues to

1 constitute a Superior Proposal, and
2 submits an updated Final
3 Recommendation. I believe that the
4 date that we have earmarked for
5 that is August 29th.

6 In that updated
7 Recommendation, the Special Master
8 will also be requesting authority
9 of the Court to terminate the
10 Dalinar SPA and turn to the other
11 replacement SPA.

12 And I would just preview Your
13 Honor timing is important on that
14 request because obviously we will
15 want to lock down the replacement
16 Bidder, the Superior Proposal as
17 soon as possible, notwithstanding
18 that the SPA is not enforceable as
19 it gets to the Special Master,
20 until Your Honor approves the SPA
21 itself.

22 THE COURT: So even though I
23 wouldn't build in a date, I don't
24 think, for when I would approve or

1 not approve, I am being reminded
2 that if you were to recommend a
3 Superior Bid, you would be
4 approaching me and asking me to
5 decide as quick as possible whether
6 to you allow to terminate the SPA.

7 MR. BENTLEY: Correct.

8 And, of course, looking at the
9 calendar, we're talking about that
10 recommendation and request coming
11 in on August 29th. We would
12 potentially be back here in front
13 of Your Honor on September 15th,
14 just over two weeks later.

15 I think that the Special
16 Masters view a response from the
17 Court on that particular very
18 discreet point would be appreciated
19 prior to being back for the Hearing
20 because in the meantime the
21 replacement Bidder will not be
22 bound to that deal.

23 So I don't think that's the
24 matter necessary for today. I just

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1 wanted to make sure you understood
2 the context, and that it didn't get
3 lost in whatever we may or may not
4 submit on that topic.

5 THE COURT: Understood.

6 MR. BENTLEY: Thank you.

7 The second point that I want
8 to address is in response to the
9 Venezuela Parties. This is more a
10 correction of what we believe the
11 record reflects.

12 First, Venezuela said that the
13 Special Master's position with
14 respect to the 2020s, inflated
15 2020s price. In fact, the Special
16 Master at one point was negotiating
17 with the 2020s, and I believe,
18 though, of course -- I don't have
19 all of the references to the 2020s
20 in the record in front of me right
21 now, I believe the Special Master's
22 position always has been that it
23 was important to engage with the
24 2020s.

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1 It's not necessarily that the
2 2020s would have to be paid prior
3 to a transaction being recommended
4 or closing, and that position is
5 also reflected in the Special
6 Master's initial recommendation of
7 the September 2024 Bid, which
8 itself did not have a 2020's TSA or
9 a settlement with the 2020s. So I
10 just wanted to correct that. And I
11 believe the record already reflects
12 that point.

13 And, then, second, in response
14 Venezuela, again, a different point
15 on the 2020s, and I believe that
16 when the 2020s stood up here just a
17 few minutes ago, they also
18 addressed the question as to
19 whether they would be seeking a
20 stay of the New York action. I
21 want to make sure that it's clear
22 on the record very expressly that
23 the Special Master would not
24 participate in that in any way in

1 that request for a stay.

2 In fact, everybody might
3 remember the same term was in the
4 Red Tree Stalking Horse Bid in
5 their TSA for the 2020s. At the
6 time, Red Tree requested the
7 Special Master to agree in the SPA,
8 Stalking Horse SPA, to participate
9 with the 2020s and with Red Tree in
10 seed that stay, and the Special
11 Master declined to do so, and he
12 would do so again if Amber Energy
13 or any other Competing Bidder
14 request that term to be put into
15 the SPA. So I just wanted to make
16 sure that's clear.

17 And, then, third, which I
18 believe will take an extra minute
19 or two is just a response to a
20 couple things that Gold Reserve
21 said with respect to what I'll call
22 the overbid issue.

23 Respectfully, I think that
24 Gold Reserve is mixing up its own

1 hats of being a Bidder and a
2 Creditor. Gold Reserve or Dalinar,
3 you know, more precisely is not
4 entitled to a better expense
5 reimbursement than a third-party
6 Bidder. We'll just use Amber
7 Energy for convenience because
8 their name has been put back into
9 the record.

10 So if Amber Energy were to be
11 the Final Recommended Bidder, even
12 dating back to July 2nd, and they
13 were expecting an expense
14 reimbursement to reimburse them for
15 commitment fees, whatever other
16 out-of-pocket reasonable and
17 documented expenses and fees they
18 might have incurred, they would be
19 limited to the \$30 million that is
20 contemplated by the Bid Process
21 Orders and by the SPA.

22 Instead, what Gold Reserve is
23 suggesting is the pot that they get
24 to pull from for paying for their

1 are committee fees and their
2 advisors is 30 million plus
3 1.2 billion in cash. That clearly
4 is not what the intention ever was
5 for anybody. Maybe Gold Reserve
6 thought it to itself, but that's
7 not in the paper, and there's no
8 reason why they should be treated
9 differently than a third-party
10 Bidder.

11 And, then, lastly, and, again,
12 in response to Gold Reserve's
13 statements about the overbid, in
14 the world that Gold Reserve thinks
15 that we all live in they get to
16 demand that \$1.2 billion payment in
17 full in cash, or else no one gets
18 to purchase the PVA shares, and
19 that role Gold Reserve would
20 dictate the winner of this process,
21 not according to the Special
22 Master's recommendation, according
23 to objections or support by other
24 parties, and not according to the

1 Court.

2 Other Creditors senior to Gold
3 Reserve, to our knowledge, are and
4 have been engaging in good faith
5 negotiations with various Bidders
6 and agreeing to noncash
7 consideration and discounts to the
8 face values of their claims, which
9 are reflected in their consent that
10 those Bids, or, as far as we
11 understand, potentially the consent
12 process.

13 But Gold Reserve is attempting
14 to hold that process hostage, and
15 that was never contemplated again
16 by the parties, even if Gold
17 Reserve claims it was written in
18 the January 27th Order in invisible
19 ink. And I say that not just in
20 jest because while we've been
21 sitting over here today, I looked
22 at the January 27th Order,
23 specifically Page 18, it's
24 Docket 1554, Page 18, SPA Material

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1 Term 12; Title, "No Solicitation
2 Non-negotiable."

3 Your Honor's Order says,
4 "There appears to be no dispute
5 with respect to this term. Special
6 Master's proposal is adopted."

7 So if we go to the Special
8 Master's Proposal filed in
9 Docket 15 -- Docket 1545, if you go
10 to Exhibit-1 -- regrettably we do
11 not have page numbers on the actual
12 exhibit, but it's Page 5 of 8 of
13 the entire filing itself, and it's
14 Number 4 in this Special Master
15 Proposal and Counterproposal.
16 Again, that's attached to
17 Docket 1545.

18 You specifically asked
19 Mr. Kirtland if he were setting
20 aside the SPA that is not
21 enforceable by its own terms, and
22 instead Mr. Kirtland argued saying
23 that Gold Reserve believes that it
24 has this right with respect to

1 Unsolicited Competing Proposals
2 directly in the Court's Orders.

3 I think it's clear that the
4 words themselves are not directly
5 in the Court's Order. In 1554, it
6 refers to 1545.

7 So, again, if you go to
8 Number 4, 1545, Exhibit-1, first of
9 all, the definition or lack
10 thereof, "unsolicited competing
11 proposal," it is not upper case
12 "U," upper case "C." It's all
13 lower case. There is no
14 definition. And the references to
15 Unsolicited Competing Proposal do
16 not include references to the
17 overbid minimum. They do not
18 include references to the expense
19 reimbursement.

20 Not to mention this entire
21 discussion of non-solicitation
22 period, any Unsolicited Competing
23 Proposal in 1554 in Exhibit-1 is
24 all with respect to the Stalking

1 Horse period.

2 The only reference to the
3 Final recommended Bidder is that
4 Special Master said, again, in this
5 filing that he was okay notifying a
6 Final Recommended Bidder of any
7 Unsolicited Competing Proposal.
8 But there's no definition here. So
9 to the extent that they're relying
10 on the defined term, they must rely
11 on it in the SPA.

12 I don't think that it's
13 necessary or right to have that
14 conversation or get ahead of any
15 briefing on the interpretation of
16 the SPA, which, again, for the
17 record, the Special Master
18 disapproves of.

19 Let me just check my notes and
20 make sure that's it.

21 I think that's all.

22 THE COURT: I have some
23 questions, and I'm not also trying
24 to get into the substantive meaning

1 of these terms, but procedurally
2 what Gold Reserve outlined today is
3 that if the Special Master next
4 week proposes a different
5 recommendation, possibly even if he
6 doesn't, but certainly if he does,
7 I should suspect something akin to
8 a motion to strike to, I suppose,
9 attempt to force me to make a
10 ruling as to whether or not you
11 actually have received a quote or
12 not in quotes Unsolicited Competing
13 Bid, and this sounds like it could
14 be disruptive to whatever schedule
15 I might set.

16 Any thoughts about that?

17 MR. BENTLEY: Well, again,
18 Your Honor, we think that that
19 briefing can be addressed in the
20 substantive briefing with respect
21 to any updated Final
22 Recommendation.

23 If that briefing were to be
24 separate and Your Honor were

1 inclined to consider separate
2 briefing on the motion to strike,
3 then, you know, we would strongly
4 request that the page limit or,
5 sorry, the amount of pages for that
6 briefing be limited, and also would
7 be set on the same timeframe as
8 would be submitted under or with
9 respect to the sale transaction and
10 the Final Recommendation as a
11 whole, which ends up being a bit
12 circular because we think, again,
13 that it should just be addressed in
14 that briefing that we're already
15 talking about doing.

16 THE COURT: What I didn't hear
17 from Gold Reserve, although maybe
18 they meant to imply it, let's just
19 say you do recommend some other Bid
20 on Monday. That's the deadline I
21 set. I don't think I heard, "Hey,
22 we don't know how to exercise our
23 match right because we don't
24 understand the world in which,

1 let's just say, a round number,
2 \$6 billion is higher than
3 \$8 million."

4 I didn't hear that argument.
5 I don't know if you did.

6 But is it the Special Master's
7 view that if he did recommend,
8 "Hey, I have a Superior Bid, that
9 whatever their match right is,
10 they'd know how to exercise it.
11 They will have all the information
12 they need in order to exercise it
13 within three business days.

14 MR. BENTLEY: I didn't hear it
15 either, and they haven't asked us
16 that question, notwithstanding that
17 we've had conversations with them
18 about the mechanics of the match
19 right, the overbid involvement, and
20 these various, you know, defined
21 terms that we've been talking about
22 today. 5

23 But what I would say to them
24 is that I imagine Special Master's

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1 guidance, if so requested on that,
2 would not be dissimilar to the
3 guidance that was provided to them
4 during the topping period, which is
5 there's a number of ways to
6 distinguish yourself and
7 improvement on qualifying your Bid.

8 Gold Reserve should look to
9 the Court's prior Orders, but also
10 we revert back to what has always
11 been and always will be our true
12 north, though, if we have to
13 consider pricing and certainty, so
14 they can either increase price or
15 they can increase certainty.

16 Unfortunately, we're talking
17 about an apples-to-oranges
18 situation. You know, before the
19 match right comes in, meaning Gold
20 Reserve has a higher price with no
21 2020's deal among and under their
22 certainty considerations and the
23 hypothetical Superior Proposal that
24 we're talking about that has a

1 lower price with increased
2 certainty that is delivered by a
3 2020 settlement.

4 You know, those are not Bids
5 on the exact same terms. I think
6 that's obvious. Unfortunately, the
7 Special Master can't say, "Here's
8 the one way that you can improve
9 upon it." If we were considering
10 apples-to-apples Bids, then, that
11 could be easier.

12 THE COURT: All right.

13 And, then, just finally, any
14 thoughts about what I suppose might
15 be characterized as sort of a
16 middle ground where we have some of
17 this Sale Hearing in September to
18 deal with at least whatever we can,
19 and maybe have a day or so set
20 aside in October, maybe after
21 additional briefing, to deal with
22 whatever, you know, if we had a
23 ruling for Judge Failla in that
24 impact.

1 MR. BENTLEY: Your Honor, I
2 think the Special Masters always
3 thought that if we move forward
4 with the September hearing and Your
5 Honor wants post-hearing briefing,
6 you know, potentially related to
7 you know, not just the 2020s but
8 related to other topics, then,
9 there's always a chance that there
10 is going to be a follow-up Hearing,
11 depending again on what the 2020's
12 decision says and what questions
13 Your Honor has coming out of the
14 Sale Hearing.

15 So I don't think that it's
16 surprising to us that that may be
17 required, though the Special Master
18 does not take a position on whether
19 it is or is not required. Of
20 course, we'll be ready and prepared
21 to do whatever Your Honor wants.

22 THE COURT: Thank you very
23 much.

24 Mr. Estrada, anything you want

1 to add?

2 MR. ESTRADA: Yes, Your Honor.

3 I hate to do this, but I would
4 like to talk some more about this
5 2020 issue because, you know,
6 Mr. Eimer, since he's been on the
7 other side of the litigation is
8 absolutely convinced that he's
9 going to win, like I was convinced
10 I would win every case that I ever
11 lost.

12 And, you know, he made
13 reference to the Alter Ego cases,
14 and I understand why he did that.
15 You may recall that I and Conoco
16 and many other people in this case
17 came to you when those cases were
18 filed and said to you, that we all
19 viewed them as almost, like, an
20 abusive sort of litigation, and
21 that we thought, you know, that
22 there were people trying to skip
23 the line.

24 THE COURT: Mm-humm.

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1 MR. ESTRADA: And I filed a
2 brief in front of Judge Rakoff,
3 with Conoco, in which we
4 effectively made that point with
5 Judge Rakoff. And, so, it's not
6 like I'm shy about telling you what
7 I think about other litigation.

8 Now, the 2020s are sort of
9 complicated because, you know,
10 Venezuela won this ruling in the
11 New York Court of Appeals on what
12 the governing law is. And they
13 tasked the Court of Appeals to say
14 that it's, you know, the law of
15 Venezuela, at least on certain
16 issues.

17 Now, telling me that the law
18 of, you know, Delaware versus the
19 law of Texas governs an issue
20 doesn't actually tell me how it
21 turns out.

22 And Judge Failla has told you
23 that she will issue a ruling by the
24 end of September. But contrary to

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1 the implication from the Venezuela
2 Parties that, you know, the skies
3 will open, and, then, we'll have
4 all the answers that are relevant
5 to value. Sadly, that will not be
6 the case.

7 And there are two issues that
8 sort of flow from, you know, this,
9 you know, fixation on the end of
10 September. One of them is that we
11 may learn what Judge Failla thinks
12 about certain of the issues, but we
13 will -- you know, as Justice Scalia
14 said in one of the opinions that he
15 wrote for the Court, "not all
16 mysteries will be revealed."

17 And that's because she may
18 tell us that the pledge is valid or
19 invalid. If she thinks that the
20 pledge is invalid, which is what
21 Mr. Eimer thinks, that will be
22 appealed as to point it out. She
23 may say that the pledge is valid.

24 Now, you know, Gold Reserve

1 and, you know, Judge Failla would
2 keep thinking that the pledge is
3 invalid, and we should maybe think
4 what the consequences for this
5 process and for all Creditors who
6 are not out of the money would be
7 if she thinks that the pledge is
8 valid.

9 That would possibly mean that
10 the 2020 Bondholders might go from
11 having a claim, like, which can be
12 settled now for, I don't know,
13 1.8 billion or 2 billion to
14 claiming that they're now entitled
15 to a claim for 3 billion, maybe,
16 and, then, it would be a wholesale
17 litigation that will, then, have a
18 huge fight about what the interest
19 rate is.

20 Now, you may recall that there
21 had been a judgment earlier that
22 had been vacated and had been
23 collecting interest at the federal
24 interest rate, which for most of

1 that period had not been that high,
2 and I think for one of those
3 periods, it was one percent.

4 When the claim was vacated, it
5 jumped to 8 percent, which was the
6 contract rate. As a result of
7 that, you know, the 2020s are now
8 claiming that they're claiming
9 they're owed close to 3 billion.

10 Now, there will be some claim
11 about whether -- you know, if
12 there's a judgment in their favor,
13 and you go back to, you know, the
14 status quo on the deal when you go
15 back to 8 percent, and there could
16 be a billion worth of a swing on
17 that.

18 Now, I would like to make the
19 point to you, as compared to the
20 swings that other people are
21 talking about, that, you know,
22 waiting for a ruling also has a
23 huge swing on, you know, the
24 waterfall here.

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1 I have looked at some of those
2 issues, and I'm not as convinced as
3 Mr. Eimer is that they're all that
4 cut and dry. Since I've lost many
5 cases that I thought I was going to
6 win, and since, you know, all of,
7 you know, the risk at being borne
8 by the Senior Creditors of the
9 "wait, wait, wait," I am not as
10 sanguine as he is.

11 He has a client that has
12 essentially lost the assets, right;
13 every which way he looks, he's
14 buying time. And you have people
15 in the waterfall, including the
16 winning Bidder for the moment,
17 Dalinar, who are the ones who would
18 be out of the money, and who had
19 nothing to lose by having a "Hail
20 Mary Pass."

21 For them to say, "Let's wait,"
22 for them if the 2020s win, they can
23 step away and all of the harm is
24 inflicted on my client who has put

1 all of his investment in years of
2 blood, sweat, and toil to try to
3 get an attachment to try to get
4 paid and they can all walk away and
5 walk away from the crash.

6 And, then, "Oh, gee, we
7 waited, and the event didn't pan
8 out. And that's unfortunate, but,
9 hey, we tried."

10 And for Mr. Eimer, like, I
11 tried as long as I could to try to
12 save the asset, hoping that
13 something would intervene and
14 something would happen and maybe
15 JD Vance would become president and
16 put OFAC back in again, and save me
17 from this, and, you know, something
18 would happen.

19 But, you know, there's a price
20 to waiting always. If we had had a
21 sale a year ago, we wouldn't have
22 suffered through the Alter Ego, you
23 know, litigation.

24 And, so, I cannot ask you to

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1 rule faster than you can rule.
2 What I heard, you know, you know,
3 the argument that you could have
4 the hearing in stages, and start in
5 September and maybe you would have
6 the case under consideration, and
7 by happenstance you would have the
8 benefit of the ruling and have, you
9 know, the benefit of, you know, the
10 best of both worlds.

11 And that would work if, as
12 Mr. Eimer expects, you know, the
13 ruling is that the pledge is
14 invalid, but that could not turn
15 out so well if the pledge is valid,
16 and in the interim, you know, the
17 complexity of this process and the
18 length of this process has cost
19 people who had what turned out not
20 to be such a bad settlement for the
21 2020s to go away.

22 And, you know, I'm not
23 prepared to sell a settlement with
24 the 2020s. Ultimately, it would be

1 up to you and Judge Failla to
2 decide whether a settlement, if one
3 is reached, actually measures what
4 the risk is.

5 We can argue about that at the
6 Hearing, if there is a settlement
7 and the Special Master actually
8 says this is a better Bid. I
9 haven't looked at it. I'm not
10 selling it.

11 But I do want for everybody to
12 think that there could be a world
13 in which there is a Bid that has a
14 settlement, which is no longer
15 available after there is a ruling
16 in favor of the Bondholders, and we
17 may all say, "You know that was
18 actually a good deal."

19 We waited for the ruling, and
20 the ruling was not what Mr. Eimer
21 hoped. By the time we all say,
22 "Darn, that was a good offer," that
23 Bid is not available and the
24 settlement is not available and we

1 all waited to long.

2 I would like for the Court to
3 also give some consideration to
4 that possibility.

5 Thank you.

6 THE COURT: Thank you.

7 Conoco Phillips, anything to
8 add?

9 MR. CASSEL: Good afternoon.
10 I'm Michael Cassel of Wachtell
11 Lipton, for Conoco Phillips.

12 Just on the Bid protections
13 issue that was raised by Gold
14 Reserve, given Special Master's
15 comments a moment ago, it sounds
16 like this issue needs to be briefed
17 and raised. It's going to be
18 briefed and raised on a relatively
19 expedited basis, given the
20 termination issue that it's raised.

21 I'll just note -- and we don't
22 want to argue the merits of this
23 issue now, but in terms of the
24 January 27th Order, Docket 1554, I

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1 just want to read into the record
2 at Page 14.

3 This is Bidder Protection 5,
4 "Overbid Minimum and Submitting
5 Cites." It says, "Gold Reserve and
6 Reserve's proposal to higher
7 50 million threshold, which the
8 Special Master does not oppose.
9 He's adopted, in part, subject to
10 the Special Master retaining
11 discretion to lower or raise the
12 overbid minimum throughout the
13 process as he proposes, which is
14 helpful for reasons, including that
15 quote, 'the evaluation criteria
16 include criteria other than
17 price.'"

18 So that's the January 27th
19 Order that Gold Reserve relies on.
20 So we think to the extent there's a
21 dispute on -- that issue can be
22 handled in a way that Special
23 Master proposes.

24 With respect to the sort of

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1 "September/October, can we get
2 started in September, do we start
3 in October," we do think there are
4 things that can be productively
5 accomplished starting in September.
6 And then, if we need to have a day
7 in October to deal with followups,
8 we may need a day in October.

9 But, for instance, the
10 valuation testimony, you know, he
11 knows what all parties intend to
12 put on it. That's not going to
13 change, depending on what the
14 Recommended Bid is or is not, so we
15 do think we should get started in
16 September. And if we do need a day
17 in October, then, we'll need a day
18 in October.

19 Does the Court have any other
20 questions?

21 THE COURT: No further
22 questions.

23 MR. CASSEL: Thank you, Your
24 Honor.

1 THE COURT: All right.

2 MR. EIMER: Almost good
3 afternoon.

4 THE COURT: It is.

5 MR. EIMER: It is good
6 afternoon. Sorry.

7 Nate Eimer, on behalf of PDVH
8 and Citgo. I just have, I think,
9 four points I wanted to make very
10 quickly.

11 First, Your Honor's question
12 from, I think last fall, "Is 3
13 better than 7," still resonates
14 today.

15 This is has been a confusion
16 on the Special Master's part, I
17 think, throughout the Stalking
18 Horse period and throughout the
19 topping period and it's resulted, I
20 think, in the Red Tree's Bid being
21 the Stalking Horse Bid, but it was
22 totally outbid by Gold Reserve,
23 without anyone being able to put
24 any value on the risk that was

1 being addressed that was, I think
2 at that point, costing us 3 or
3 \$4 billion in value.

4 I think my interpretation of
5 the Court's Order on the Stalking
6 Horse Bid, Stalking Horse Sale --
7 excuse me, Selection, was that much
8 more emphasis should have been put
9 on price than the Special Master's
10 giving at that point, and I
11 understand Your Honor's deference
12 to the Special Master.

13 But this issue hasn't gone
14 away, and it's not going away
15 unless Gold Reserve is correct. If
16 Gold Reserve is correct, then, the
17 Bidding has to be from now on
18 straight on dollar value being paid
19 not on security.

20 So I think you have to decide
21 that upfront apparently because if
22 Gold Reserve is right, there's
23 \$2 billion that is being diverted
24 right now to security in which if

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1 their right, it's only about
2 headline price now, can be taken
3 off and put into the headline
4 price, which would make a
5 difference as to who can be a
6 successful Bidder, instead of a --
7 it sounds like it's unavoidable
8 that that issue can come up because
9 the Special Master, as he has now
10 indicated, has to come back to you
11 for an Order terminating the SPA.
12 Gold Reserve is going to raise this
13 issue there.

14 So I don't see how that issue
15 is going to be avoided in the next
16 week, one way or another.

17 I think it has, as I indicated
18 before, a silent effect because if
19 Your Honor determines that now Gold
20 Reserve is correct, and it's not
21 priced in security of closing or
22 certainty of closing anymore, it's
23 just headline price, then, there's
24 \$2 billion that had been devoted by

1 others to paying the 2020s can go
2 into the headline price in terms of
3 that competition.

4 The second point I want to
5 make is that Amber is not
6 represented here today, and the
7 2020s certainly can't represent
8 what Amber intends to do. They
9 have no idea whether Amber intends
10 to cancel those notes or not.

11 I don't know why they would.
12 They have apparently value to them.
13 And, so, we have no assurance that
14 the those notes are going to be
15 canceled or not.

16 Then, finally with respect to
17 that issue, the TSAs only represent
18 about two-thirds of the notes.
19 There are still a third of the
20 notes that are outstanding, and
21 that PDVSA and PDVH are trying to
22 invalidate.

23 And, so, that litigation is in
24 front of Judge Failla is not going

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1 to be moot. This litigation is
2 going to continue, and Judge Failla
3 is going to need to reach a
4 decision.

5 If the decision, as I said
6 before, is that the notes are
7 invalid, then, we paid \$2 billion
8 to the 2020s for nothing, and it
9 would be manifestly unfair so that
10 decision still needs to come out
11 regardless of whether they ask for
12 a stay or not.

13 And I think Gold Reserve is
14 correct. They will not be a stay
15 if the injunction issued by
16 Judge Failla, if she determines
17 that the notes are invalid.

18 Then, I wanted to make one
19 comment on opening statements to
20 get back to procedure. I think
21 Your Honor has so many briefs at
22 this point that they have us all
23 come up and parade for another
24 half-hour each or 15 minutes each

1 to start a Hearing. That makes a
2 little sense.

3 I think we're trying to get
4 this done as efficiently as
5 possible, so I would suggest that
6 there's no need for that.

7 And, then, finally, I know
8 Crystallex and Conoco are worried
9 about security and certainty in
10 closing. The Special Master can
11 deal with that, if he's allowed to,
12 under the SPA.

13 If Your Honor rules now that
14 Gold Reserve is not correct that
15 headline price is the only basis of
16 competition going forward, the
17 Special Master could select the TSA
18 that's there now, and, then, that
19 TSA is locked in place, regardless
20 of what Judge Failla rules.

21 So there's no out for the
22 2020s. If Judge Failla rules in
23 their favor, they're stuck with the
24 \$2 billion settlement. But if

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1 Judge Failla rules against them,
2 Your Honor has the ability to
3 overturn that settlement being
4 manifestly unfair.

5 So that's why before I said
6 I'm not objecting to the Special
7 Master making his decision within
8 the next week or ten days because
9 that likely will be before
10 Judge Failla rule. And if he wants
11 to and if he is worried about that
12 security, he can lock the 2020s
13 into the \$2 billion settlement, but
14 Your Honor will have the ability in
15 October after Judge Failla rules to
16 overturn it, and release that
17 \$2 billion for bidding for more
18 value for the stock.

19 Thank you.

20 MR. EIMER: If the Court has
21 no questions, I'm done.

22 THE COURT: No questions.

23 MR. EIMER: Thank you.

24 MR. GARVEY: Nothing further

1 Republic, Your Honor.

2 THE COURT: Thank you.

3 MR. FORASTIER: Nothing
4 further for PDVSA.

5 THE COURT: Mr. Perla, do you
6 want to say anything?

7 MR. PERLA: Yes, Your Honor,
8 thank you. Just briefly.

9 With respect to the points
10 made by ACL, the Bidder Protections
11 that exist in the no-shop period
12 must exist in advance of and be
13 effective prior to the Court
14 approving the final SPA because
15 otherwise they would be illusory.

16 They're put in place precisely
17 to govern this period, and that
18 period is by definition before
19 Court final approval, so they are
20 effective and they do bond.

21 Special Master and the Parties
22 have always treated these
23 provisions as being fully binding
24 and effective, as we'll set forth

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1 in your Motion, Your Honor.

2 Point 2. On this potential
3 stay of the 2020 litigation, we
4 think this really underscores why
5 we objected to the adjournment,
6 which we think has the potential to
7 accomplish a substantial injustice.

8 The entire reason we are here
9 not hearing witnesses in proceeding
10 towards a Sale Order is because
11 Amber Energy put in a Bid
12 \$1.5 billion lower than the Final
13 Recommended Bid, the justification
14 which was solely that it mitigated
15 the risk of the potential 2020
16 litigation, and yet -- and yet,
17 Judge Failla told the 2020s in July
18 and, again, to Your Honor just
19 recently, that she expects to rule
20 on whether this risk exists at all.
21 They now want to avoid that ruling
22 from ever taking place.

23 So they screw up our Sale
24 Hearing, Your Honor, to put it

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1 bluntly, take it off the calendar,
2 try to get our Bid taken off based
3 on this mitigation of this risk,
4 and, now, their plan, as they now
5 openly admitted in court, they are
6 contractually obligated to ask
7 Judge Failla to never rule on that
8 risk.

9 I'm not sure if I would go so
10 far as Mr. Eimer to say that that
11 constitutes a fraud on the Court,
12 but it certainly is not in good
13 faith.

14 If the 2020s are invalidated,
15 we proceed forward into broad,
16 somewhat uplance with a Bid at max
17 value, and none of this nonsense
18 that we've been going through since
19 the original Amber Energy Bid, Your
20 Honor, which allocated the 2 and a
21 half billion dollars in an escrow
22 and stopped anyone from getting
23 paid until it was cleared.

24 This 2020's ruling could be

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1 transformative, Your Honor, if it
2 deems them invalid. The Sale
3 Hearing could take place in a day.
4 All that it would concern in that
5 instance would be just the
6 validation arguments raised by the
7 Venezuela Parties.

8 As Your Honor noted in the
9 Adjournment Order, all of the
10 objections to the Dalinar Bid arise
11 out of 2020's risk.

12 Point 3, Your Honor,
13 Mr. Bentley's first point, the
14 Special Master does have to seek
15 Court approval to terminate our
16 SPA. That will be a litigated
17 issue, and even if it's on the most
18 expedited proceeding it prohibits,
19 in our view, a September 15th Sale
20 Hearing Date. There just isn't
21 time on the calendar to add these
22 steps sensibly.

23 We could, though, Your Honor,
24 use the September 15th dates to:

1 1, decide the termination
2 issue;

3 2, have oral argument on our
4 Motion to strike the Notice of
5 Unsolicited Competing Proposal;

6 And 3, take whatever arguments
7 sensibly can be taken on objection
8 points that aren't going to change
9 no matter what Bid is put forward.

10 And that is the proposal that
11 we would suggest, Your Honor. We
12 think it's a very good middle
13 ground, and it serves all interest
14 and it doesn't prejudice anyone.

15 4. With respect, Mr. Bentley
16 is wrong, and his interpretation of
17 the briefing in January, that's
18 exactly what he was referring to
19 that has been modified by the
20 Court, pursuant to the adoption of
21 our objections about the overbid
22 minimum.

23 We'll set forth all of that
24 for Your Honor in the our briefing.

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1 THE COURT: Is the implication
2 of your interpretation of the SPA
3 and Bidder Protections that we've
4 reached a point where the only
5 criteria is now price?

6 MR. PERLA: No. Non-price
7 considerations justify the Special
8 Master exercising his discretion to
9 lower or raise the overbid minimums
10 as --

11 THE COURT: That's it.
12 There's no further
13 consideration of certainty of
14 closing, other than his discretion
15 to increase or decrease a
16 \$50 million overbid. That's it.
17 That's what I recall is what you're
18 saying.

19 MR. PERLA: \$80,000,000, Your
20 Honor, is the overbid.

21 THE COURT: 80 million.

22 But he has no discretion of
23 consider certainty of closing, and
24 I take it you think I have no

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1 discretion either any longer, other
2 than just to adjust the overbid
3 minimum. That's it.

4 MR. PERLA: No. The Special
5 Master, yes. That's exactly right.

6 The Final Recommendation
7 deems -- and he's on the record
8 that they deem that our Bid at 7.3
9 with full financing has sufficient
10 certainty of closing, yes, Your
11 Honor.

12 As to Your Honor --

13 THE COURT: And you think I
14 can find that in this paragraph,
15 DI 1554, which expressly quotes
16 that the evaluation criteria is
17 criteria other than price, you
18 think you're going to persuade me
19 that I should read into all of
20 that, that he has no ability to
21 think about closing certainty any
22 longer, other than to increase or
23 decrease the overbid minimum.

24 MR. PERLA: We certainly can,

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1 Your Honor, but it has to be on a
2 price that's above the Final
3 Recommended Bid. The entire
4 Matzah ball of closing certainty is
5 a topping period analysis. That's
6 exactly why we had Your Honor 35,
7 40 days to consider closing
8 certainty and price and how it
9 interrelated.

10 THE COURT: But can you point
11 me to where I ruled or should have
12 understood I was ruling that
13 closing certainty is now out of the
14 window as an evaluation criterion
15 at this stage and going forward.

16 MR. PERLA: It's not, Your
17 Honor.

18 Your Honor could still -- Your
19 Honor isn't required to accept the
20 Special Master's recommendation.

21 THE COURT: No, I understand
22 that.

23 MR. PERLA: So if Your Honor
24 deemed that despite what Special

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1 Master has recommended, and despite
2 our commitment letter showing that
3 we have more than enough financing,
4 it's not conditional to 2020s
5 litigation, and we've got
6 everything lined up and all that is
7 not sufficient and we're fully
8 committed to move forward, despite
9 what the ruling is in New York, and
10 we have mechanisms and methods to
11 close, and we've put in all our
12 applications, despite all of that,
13 Your Honor thinks there isn't
14 sufficient closing certainty, then,
15 of course, the Court's not
16 obligated to accept the Special
17 Master's recommendation.

18 So this would be the purpose
19 of the objections. I mean, this,
20 Your Honor, is what the objections
21 have been.

22 Crystallex, Conoco Phillips,
23 to a lesser extent ACL, OIAG,
24 they've all said, "Well, Your

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1 Honor, we're asking for tweaks in
2 the Dalinar Bid terms in order to
3 address and improve closing
4 certainty."

5 So that's the mechanism. But
6 in terms of the Bidder Protections,
7 Your Honor, and what has to be a
8 Non-solicited Bid and what its
9 requirements are, yes, the price
10 has to be higher.

11 This is an auction, Your
12 Honor. When you win the auction at
13 \$10, you're not displaced by a Bid
14 at 8. Full stop. It has to be 11.
15 10.50. And this is how it works.
16 That's how you get to max price.
17 Full stop.

18 And that is exactly what we
19 said to Your Honor. I think, Your
20 Honor, we said we're not going to
21 engage in the merits, and we're a
22 little bit into the merits,
23 obviously.

24 I think when you see our

1 brief, Your Honor, we'll lay it
2 out, chapter and verse, all the
3 back and forth, what we argued,
4 what was accepted. We think it's
5 black and white. There's no debate
6 on this subject.

7 Now, there are mechanisms to
8 deal with certainty, as I've said,
9 but not Unsolicited Proposals.
10 This is the whole point.

11 And I would like to make a
12 practical point, Your Honor, as to
13 how this Bidding works.

14 The only reason the Amber
15 Energy Bid exists today is because
16 of the Final Recommendation and the
17 Bidder Protections that caused us
18 to both add another half a billion
19 to our Bid, as well as incur
20 substantial fees.

21 All of these negotiations
22 amongst the Bidders, the Elliots,
23 the Bidder B, Cash Judgment
24 Creditors, Noncash Consideration,

1 it's all based on negotiating
2 leverage.

3 And it is only because of the
4 Bidding Protections that caused us
5 to put in our Final Recommended
6 Bid, it creates a circumstance,
7 Your Honor, for a rival Bidder.
8 Amber Energy can come in and try to
9 peel people off. They couldn't do
10 it during the topping period. It's
11 in the Final Recommendation, Your
12 Honor.

13 So this is exactly how it
14 works. You have to have your best
15 foot forward in the topping period.
16 Once you have Final Recommended and
17 you incur tens of millions of
18 dollars in expense, this is the
19 protection you get. It's exactly
20 how it works, Your Honor.

21 It's strange because during
22 the Stalking Horse period we're
23 talking about price and certainty
24 and all of that, but this is

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1 exactly what the Bidder Protection
2 is for.

3 It, in fact, prohibits the
4 Special Master from engaging in and
5 talking with Competing Proposals.
6 It is anti-competitive. Why?
7 Because without that Protection, we
8 never would have put our Bid in.
9 There would be no \$7.3 billion
10 Dalinar Bid, that Amber could then
11 try to undercut.

12 We'd be back with the Red Tree
13 Bid at 3.7, and we'd be done. You
14 only get the price up with the Bid
15 Protections, Your Honor. We'll set
16 this all out in a Motion. We
17 think, again, once you see it with
18 the full briefing, with the facts
19 as applied to the law, we feel it
20 will be crystal clear.

21 And the final point, Your
22 Honor, is we are not attempting to
23 hold this process hostage as
24 Mr. Bentley said. Far from it.

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1 We are trying to have our
2 executed SPA approved and enforced
3 at 7.3 billion, still \$1.5 billion
4 higher than the Amber Bid, so that
5 we can pay not only our consortium
6 members, but every Senior Creditor
7 ahead of us: ACL, Tidewater, OIG,
8 Red Tree, a 2020 Bondholder, all
9 get paid fully in cash under our
10 Bid, and we have fully committed
11 financing that is not conditional
12 in 2020's litigation.

13 This could have been approved,
14 Your Honor. We're not trying to
15 hold it hostage. All we're trying
16 to do is if in the event we are
17 displaced, we get the protections
18 that the Court ordered in January,
19 on which the entire process has
20 been predicated. That's all.

21 THE COURT: My sense is
22 everyone else here thinks that your
23 clients are going to walk away if
24 Judge Failla rules in favor of the

1 2020s.

2 What can you say to give them
3 any assurance that that's not the
4 case?

5 MR. PERLA: This is absurd,
6 Your Honor. I mean, yes, I've
7 heard this. We had an entire
8 hearing on April 17th where we said
9 repeatedly and explained the ways
10 that the 2020s ruling that did not
11 invalidate the bonds would not
12 invalidate our financing, and we
13 would still close over that
14 potential risk. We will not walk
15 away in that circumstance, Your
16 Honor. The SPA requires us to
17 close, not only is it --

18 THE COURT: Is there a
19 financial consequence if you walk
20 away?

21 MR. PERLA: Oh, my gosh, yes.
22 We lose our \$50 million deposit.
23 We lose the circa 50 to the
24 \$75 million that we've invested in

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1 the process, and we get zero
2 recovery on our \$1.2 billion
3 judgment, so does Siemens behind us
4 at 250, as does our other
5 consortium members.

6 So, yes, Your Honor, we suffer
7 a massive financial consequence
8 it's existential to Gold Reserve.
9 My client was a legitimate mining
10 company until the Chavez regime
11 expropriated our mine in the early
12 2000s. Since then, we have been
13 trying to collect our \$750 million
14 judgment and our arbitral word that
15 was issued by Crystallex's.

16 So, yes, this is existential.
17 We will not walk away, Your Honor.
18 The suggestion has no basis to
19 put it mildly. We are committed to
20 doing this. This is why we're
21 here.

22 THE COURT: Anything else?

23 MR. PERLA: No. Thank you
24 very much, Your Honor, for the --

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1 THE COURT: Anybody that
2 absolutely has to be heard briefly?

3 MR. KIRPALANI: Thank you for
4 the intro, Your Honor.

5 Susheel Kirpalani of Quinn
6 Emanuel, Urquhart & Sullivan, on
7 behalf of Amber Energy.

8 And, actually, the reason we
9 didn't stand up before is because
10 we only wanted to speak if it was
11 absolutely essential, but I don't
12 think it's fair to the participants
13 or to the Court to not confirm on
14 the record what counsel for the
15 2020 Noteholders had said, which is
16 that if Amber Energy is selected as
17 the Superior Bid, we will
18 extinguish all of the 2020 bonds
19 that come into our settlement and
20 that will be on offered to all of
21 them.

22 And to the extent the Special
23 Master wants to work that into a
24 finding SPA or related document,

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1 we're prepared to do that. I just
2 wanted to clarify that because
3 Mr. Eimer --

4 THE COURT: The current
5 settlement, is it correct that it's
6 only with roughly two-thirds of the
7 Bondholders?

8 MR. KIRPALANI: I don't know
9 the exact number. I think it's in
10 excess of two-thirds. I know it's
11 in excess of two-thirds, but I
12 don't know the exact number. They
13 can only speak for themselves,
14 because that's the document they
15 can sign.

16 But the settlement offer is
17 open to all 2020 Bondholders. If
18 there's a 2020 Bondholder out there
19 that wants to hold on to a bond,
20 and, you know, put it on their
21 wall, I guess they can do that, but
22 we can do what we can do.

23 I just wanted the Court to
24 know that whatever Amber Energy

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1 acquires will be extinguished to
2 the benefit of Venezuela, and I
3 think it would likely root out
4 whatever litigation is pending, but
5 I can't guarantee that.

6 THE COURT: Thank you.

7 MR. KIRPALANI: Thank you.

8 THE COURT: All right.

9 It's 12:45. I am going to
10 take a break until 1:30, and come
11 back at 1:30. I'm hoping I will
12 tell you something, whoever's here.
13 I won't tell you everything, but I
14 will see some of you at 1:30.

15 THE COURT OFFICER: All rise.

16 - - -

17 (Whereupon, there was a
18 luncheon recess held off the record
19 at 12:45 p.m.)

20 - - -

21 (Back on the record at 1:34
22 p.m.)

23 - - -

24 THE COURT OFFICER: All rise.

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1 THE COURT: Have a seat.

2 All right.

3 I think given the press of
4 time that we're all very familiar
5 with, I've put myself in a position
6 where I have to make some rulings
7 about how we're going to proceed,
8 and, so I'm going to do that.

9 It's largely consistent with
10 the inclinations I announced
11 earlier today, but there are some
12 modifications.

13 I'll put this all on the
14 record, and, then, if there are
15 questions, you'll let me know.

16 I do want to first start by
17 thanking Dr. Garrett for being
18 here.

19 I've heard what you've said.
20 I have carefully reviewed all of
21 your many Motions to this point.
22 There are other Motions that are
23 under advisement, which I will turn
24 to in due course.

1 Since you're not aware, I
2 think you understand you cannot
3 represent anyone other than
4 yourself, including a class of
5 arguably similarly situated folks,
6 but you can represent yourself, and
7 that's why I've heard from you
8 today.

9 It seems that the fundamental
10 problem remains; you're not a
11 Judgment Creditor of any of the
12 Venezuela Parties, and this is a
13 proceeding in which Judgment
14 Creditors are trying to recover on
15 those judgments.

16 That said, I will continue to
17 fairly and fully evaluate whatever
18 you submit, including Motions, in
19 front of me. I did want to say
20 that to you.

21 DR. GARRETT: Thank you, Your
22 Honor.

23 THE COURT: Thank you.

24 In terms of how we're going to

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1 proceed with the next steps, I'm
2 going to address things in the same
3 order, I think, that I did this
4 morning, even though that order may
5 not have made much sense, but it
6 has the value of having been a
7 precedent that I set this morning.

8 So, first, the Gold Reserve
9 issue, and whether there's going to
10 be briefing.

11 I said this morning there
12 would not be briefing upfront about
13 the Gold Reserve issue, that
14 basically the interpretation of the
15 Dalinar and Bidder Protections.

16 I do adhere to that
17 inclination. I'm not ordering
18 briefing as of today, but, having
19 listened to the arguments, I
20 recognize that there is some
21 chance, perhaps not a small chance,
22 that as soon as next week this
23 issue may be placed on the Docket,
24 and I may have to deal with it more

1 quickly than I had otherwise
2 thought earlier today.

3 Specifically, I recognize that
4 if next week the Special Master
5 recommends a Bid other than the
6 currently recommended Dalinar Bid,
7 he is going to have to request the
8 right to terminate the Dalinar SPA.

9 And at that point, I recognize
10 I should expect opposition to that
11 request from Dalinar and/or a
12 motion perhaps a Motion to strike
13 whatever other Bid it is that the
14 Special Master may have
15 recommended.

16 And perhaps there may even be
17 a motion at that point for Dalinar
18 to ask for me to stay the three-day
19 match period. I don't know. In
20 the event -- and I don't know if
21 any of these things are going to
22 happen. I don't know what the
23 Special Master is going to do, of
24 course.

1 But whatever happens, and if
2 it is any of those things, then,
3 any such objection to what the
4 Special Master is requesting to
5 terminate the Dalinar SPA, if he
6 requested that, or briefing on a
7 Motion from Dalinar or Gold
8 Reserve, any briefing on that, I
9 will require to be completed no
10 later than September 11th, so that
11 at the Sale Hearing, which is going
12 to start on September 15th, I have
13 the opportunity to hear argument on
14 objections or Motions, if such
15 argument is necessary.

16 To be clear, at this point,
17 I'm not making any substantive
18 ruling on the meaning of the Bidder
19 Protections or Dalinar SPA. I'm
20 also not saying that the match
21 period, if these various
22 contingencies were to happen, is or
23 could be told or extended.

24 Absent some further Order from

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1 me, I've not modified whatever the
2 provisions of the SPA are, and, of
3 course, that SPA, we all know, is
4 not fully binding in any event
5 because I've not approved it yet.

6 And I would note, I don't
7 think until possibly today anyone
8 even suggested that the three-day
9 match period would be anything
10 other than a three-day match period
11 that would start with, if it were
12 to happen, a recommendation of a
13 different Bid than the Dalinar Bid.

14 It's a lot of words to
15 basically say I'm not requiring a
16 briefing now. I'm not trying to
17 impact anybody's rights whatever
18 they may be, under the Agreements
19 that have already been struck
20 between the Special Master and
21 Dalinar.

22 But I have been educated over
23 the last three hours that there is
24 a greater risk that I realize that

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1 these issues might have to be
2 grieved and dealt with soon, but my
3 current attempt would not be to
4 make any ruling on them, unless and
5 until we get to September 15th
6 Hearing. Okay.

7 Next point. I indicated this
8 morning, I was not inclined to wait
9 for Judge Failla's anticipated
10 ruling in terms of figuring out my
11 schedule, and I adhere to that.
12 I'm not waiting for her decision,
13 but I am going to set aside one or
14 two days in the October window that
15 I gave you for possible additional
16 Sale Hearing, if necessary.

17 I do recognize that October is
18 after September 30th, so it may
19 well be that we have her decision
20 on the pending Motions if and when
21 we get to October dates for part of
22 the Sale Hearing.

23 If Judge Failla has ruled and
24 the parties have submitted to me

1 their positions on the impact of
2 her ruling on the issues that have
3 been tried by that point at the
4 September portion of the Sale
5 Hearing, or with respect to new
6 issues, it could happen that there
7 is additional argument, maybe even
8 additional evidence, at an
9 additional day or two of the Sale
10 Hearing in October. I don't know.

11 I'm going to hold two days on
12 my calendar in October, and ask you
13 all to do the same in case we have
14 to come back for any further
15 evidence and argument in the nature
16 of a Sale Hearing that could be, in
17 part, due to an intervening ruling
18 from Judge Failla.

19 The October dates, I realize
20 are good to set aside anyway
21 because it may be that following
22 the post-trial proposed findings of
23 fact and briefing that I'm still
24 going to order in the

1 post-September period, I may have
2 more questions than I want to ask
3 there, but I may want to hear
4 further argument.

5 So the bottom line is we're
6 going to have four days on the
7 calendar in September. We're going
8 to have two days on the calendar in
9 October. As those days get closer,
10 I will cut them back to the extent
11 I can, and certainly give you time
12 windows that are not most likely
13 all of 8:00 a.m. to 7:00 p.m. on
14 all six days.

15 But I did just want to point
16 out my schedule is not triggered by
17 Judge Failla. We might be able to
18 benefit from her ruling, but that's
19 not what's motivating the timing
20 decision I'm making.

21 I also tend to think, as I've
22 said today and probably came
23 across, I think it's likely I'm
24 going to have to deal with all

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1 possible permutations of what, if
2 any, value there is to these 2020
3 Noteholders' rights, almost no
4 matter what. Almost no matter what
5 Judge Failla rules, or if for some
6 reason she didn't rule.

7 I also -- and this is part of
8 when I say that, expect that the
9 2020 litigation is not going to be
10 over even in October. Even
11 following her upcoming rulings,
12 assuming it comes by
13 September 30th, there will likely
14 be litigation over a stay and/or an
15 injunction, and, maybe as pointed
16 out today, maybe litigation over
17 what interest rate is applicable
18 and what impact will that have on
19 the values of the 2020's rights.
20 And, then, there's always very
21 likely an appeal. So I think I'm
22 going to have to deal with all of
23 that almost no matter what happens.

24 Moving forward, some specific

1 dates.

2 This Thursday, which I believe
3 is the 21st, I still do want the
4 Special Master to do what he can to
5 propose a new schedule. At
6 minimum, it should be a piece of
7 paper I can sign that includes the
8 dates that I'm trying to articulate
9 now and any other dates and
10 deadlines that may arise from any
11 meeting conferring that the Special
12 Master can engage in between now
13 and Thursday.

14 Where there's a consensus,
15 great, please indicate that,
16 include those dates and deadlines.
17 Where there's not consensus to the
18 extent feasible, the Special Master
19 can work with the Parties to
20 represent what the different views
21 are. That would be helpful.

22 I think it would be helpful to
23 all of if I'm able to sign some
24 sort of Order on Friday that says

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1 "Here is the best, as we can tell,
2 the next steps and the dates and
3 the deadlines."

4 I'd say put as much into that
5 proposed Order as you can, but to
6 the extent this morning I said I
7 was inclined to order the Special
8 Master to figure out every possible
9 permutation and all different
10 tracks, I'm not ordering that.
11 That inclination, I am no longer
12 adhering to.

13 But definitely include the
14 dates and deadlines I'm announcing
15 now. Definitely put in there that
16 new discovery is strictly limited
17 to that which is directly related
18 to any change in the Special
19 Master's recommendation or his
20 decision not to change his
21 recommendation.

22 And definitely put in that any
23 additional pre-Hearing briefing
24 should be limited to new issues, as

1 well as the final sur-reply
2 response that I cut off, that would
3 have come in on Saturday for those
4 that are supporting the Dalinar
5 deal.

6 Also, put in that whatever
7 briefing there's going to be prior
8 to the September Hearing needs to
9 be done by September 11th; however
10 many rounds it is needs to be done
11 by September 11th.

12 Further, to the extent the
13 Special Master is able in that
14 proposed Order on Thursday, I would
15 like a first attempt to suggest
16 what topics and witnesses can
17 appear and be addressed at the
18 September portion of the Sale
19 Hearing, and what, if anything,
20 might need to wait until a possible
21 October day or two. So that's all
22 Thursday, August 21st.

23 On Friday, August 22nd, that
24 is the deadline for Best and Final

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1 Bids to be presented directly to
2 the Special Master, should anybody
3 wish to do so.

4 Any further offers or Bids
5 after Friday are to be docketed
6 directly on the public docket with
7 appropriate redactions to protect
8 Citgo confidential information, and
9 any other confidential information
10 that the Bidder came into
11 possession of as a result of making
12 obligations to keep things
13 confidential. And such Bids, that
14 is those received after Friday, may
15 initially redact the Bidders'
16 identity.

17 To be clear, the Special
18 Master has no obligation and no
19 authority at this point to engage
20 with such Bidders without obtaining
21 Court approval.

22 By contrast, and I hereby
23 order the Special Master is given
24 basically blanket authority to

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1 engage with any Bidder that he has
2 heard from to this point, and from
3 whom he may hear from by
4 11:59 p.m., on Friday.

5 But for those that don't meet
6 that Friday night deadline, those
7 go directly to the docket, not to
8 Special Master. He has no
9 authority at the moment to engage
10 with them.

11 The next deadline is Monday,
12 August 25th. The Special Master is
13 to advise all of us as to whether
14 or not he has received a Superior
15 Proposal. If he indicates the "or
16 not," then, he will confirm what I
17 think is the only other possible
18 alternative that he's sticking to
19 his recommendation of the Dalinar
20 Consortium as his Recommended Bid.

21 Thursday, August 28th, is the
22 Dalinar deadline to match a
23 Superior Proposal, if a Superior
24 Proposal has been designated.

1 Friday, August 29th, the
2 Special Master is to advise all of
3 us what his Recommendation is in
4 light of Dalinar efforts to match,
5 if they have made an effort to
6 match, if there has been a Superior
7 Proposal.

8 The Sale Hearing itself, as
9 I've already suggested, we're going
10 to hold as much of the Sale Hearing
11 as we possibly can in terms of
12 evidence and argument between
13 Monday and Thursday, September 15th
14 to 18th, at times between 8:00 a.m.
15 and 7:00 p.m., here in the
16 Courthouse in Delaware. Specific
17 times will be determined closer to
18 the hearing. Witnesses can be
19 taken out of order, if needed to
20 accommodate their schedules.

21 We will also be setting aside
22 October 20th and 21st, in the event
23 we need additional evidence and/or
24 argument.

1 I recognize this is out of
2 order, but the week before the Sale
3 Hearing in September, on
4 September 9th, as I suggested was
5 my inclination this morning, on
6 September 9th, the Special Master
7 is to submit a status report that
8 includes, in addition to anything
9 else he wants to include, the
10 proposed or requested number of
11 hours for anyone who intends to be
12 heard, either in terms of examining
13 witnesses, somehow offering
14 non-witness evidence, or making
15 argument or wanting to answer
16 questions, anyone who wants to
17 speak at the September portion of
18 the Sale Hearing needs to be listed
19 in this status report with a
20 requested or proposed number of
21 hours or minutes that you want that
22 you will draw on that basically
23 adhere standing up, then, your
24 clock is running.

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1 I am going to include opening
2 statements, and nobody is required
3 to make an opening. If you want to
4 make an opening statement, you're
5 going to have to let everybody else
6 know that you plan to make one.
7 You have to let them know that by
8 Friday, September 12th, at noon.

9 I recognize there's a lot of
10 briefing and I'm ordering more
11 briefing and I do my best to keep
12 track of all of the briefing and
13 all the issues.

14 No prejudice to you if you
15 don't want to use any of your
16 minutes on opening, but if you want
17 to I will be listening. So you
18 decide that. Similarly, for
19 closing arguments, if you have time
20 leftover, and if you have time left
21 after all the evidence and you want
22 to stand up and make a closing
23 argument, and also be subjected to
24 questions from me, totally you can

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1 do that. I find that helpful.

2 You're not required to do it.

3 The way I do this, and I found
4 it works for me, is, I'm going to
5 give you a fair amount of time, and
6 you're going to decide how to use
7 it. I will adjust accordingly.

8 So September 9th, you'll work
9 with the Special Master to list the
10 hours that each of you intend to
11 participate in the September days
12 of the Sale Hearing. We'll have to
13 come up with a similar sort of
14 process if there's going to be the
15 October days, but I'm not trying to
16 set that process now.

17 Any witness that's been
18 identified to date, as I have
19 indicated was my inclination this
20 morning, is potentially available
21 as a witness at the September
22 Hearing, subject to Objections to
23 be resolved, along with any other
24 Objections about how we're going to

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1 use our time together in September
2 in the teleconference that I will
3 have on September 10th at 3:30.

4 To be clear, it was mentioned,
5 I think, one or two Red Tree
6 valuation witnesses. That's what
7 I'm referring to, at least as an
8 example. They are not, per se,
9 prevented from appearing in
10 September, but they should be put
11 up for a deposition and even if
12 they're put up for a deposition if
13 someone has an objection, I'll hear
14 that objection on September 10th.

15 But if the objection is, "We
16 didn't have time to depose them,"
17 that's probably not going to be
18 very meritorious, since you have a
19 few weeks.

20 And, then, there will be a
21 post-Hearing briefing and post
22 finding of facts. We will talk
23 about the details of that in the
24 September Hearing.

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1 That was all I had planned to
2 say. Let me first turn to the
3 Special Master who by Thursday is
4 supposed to put all of this in
5 close order.

6 Do you have any questions?

7 MR. BENTLEY: No, thank you,
8 Your Honor.

9 THE COURT: I'll just scan the
10 room quickly.

11 Does anybody want to be heard
12 on anything?

13 MR. EIMER: Just a couple of
14 clarifications.

15 THE COURT: Yes, please.

16 MR. EIMER: Just only two, I
17 think.

18 You mentioned September 9th
19 for the report for the Special
20 Master as to what time everybody
21 wants, and the witnesses'
22 identifications, so forth.

23 Then, you also mentioned
24 September 12th for notifying

1 everyone.

2 Are those two different
3 requirements?

4 THE COURT: They are.

5 All I meant to say for the 12,
6 which, if I'm going this right, is
7 the Friday before the Hearing, is
8 just telling him by noon if you
9 intend to make an opening
10 statement.

11 THE COURT: I'm giving you
12 'til Friday by noon. By then, you
13 should know if you want to use some
14 of your time for that.

15 MR. EIMER: Right.

16 So that's something we would
17 specify on the 9th, that we want a
18 half-hour for an opening statement.

19 THE COURT: You have until
20 Friday --

21 MR. EIMER: Okay.

22 THE COURT: -- the 12th, at
23 noon. If you already know on the
24 9th, you don't have to hide it,

1 sure.

2 MR. EIMER: Okay.

3 THE COURT: But you're free to
4 decide between the -- because we're
5 probably going to schedule a call
6 on the 10th. I hope there may be
7 nothing to talk about on the
8 10th --

9 MR. EIMER: Right.

10 THE COURT: -- but there may
11 be objections and all and you may
12 want to factor that into deciding
13 whether you want an opening
14 statement or not.

15 MR. EIMER: Okay.

16 And, then, the second thing I
17 wrote down is deal -- you thought
18 you'd have to deal with all the
19 permutations, I think you said, the
20 value of the 2020s.

21 Do you want that in something
22 after Judge Failla rules, or are
23 you anticipating it now? I don't
24 understand quite how we bring that

1 to you.

2 THE COURT: So what I meant to
3 say just now is what I think maybe
4 I said to you in the questions this
5 morning is just I think inevitably
6 I'm probably going to have to, you
7 know, write something that
8 contemplates the 2020s are valid,
9 they're invalid, "she said this,"
10 "the Second Circuit may say that."

11 I didn't mean just now to say
12 anything about specifically when or
13 how you weigh in on that.

14 MR. EIMER: So you're not
15 asking us to make a record on that
16 at this point in terms of its
17 valuation and risk. Should that
18 wait --

19 THE COURT: Just whatever you
20 are intending to do with however
21 much time I give you in the
22 September Hearing, and maybe with
23 the follow-up in October.

24 MR. EIMER: Okay.

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1 That's it. Thank you very
2 much.

3 THE COURT: On this side of
4 the room, anybody else?

5 Dr. Garret?

6 One minute. Okay.

7 Come up here, so we can hear
8 you.

9 DR. GARRETT: Your Honor, with
10 all due respect, I appreciate your
11 words, and I totally endorse them.
12 I just want to put in your mind
13 something.

14 This is not an ordinary Sale.
15 It's coming from an Owner, which
16 the Government is being told by
17 Declare International terrorist
18 organization. There is a lot of
19 blood around this business and
20 suffering.

21 I know my limitations, but
22 this country also upholds
23 legislation and International
24 treaties, in which human pain or

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1 transgressions must be tried in
2 Courts of law.

3 I know because I'm coming from
4 Union (ph.) I'm a trained lawyer
5 in-house for commercial in oil and
6 gas. I never try a case. I have
7 no qualifications.

8 But I got to tell you this,
9 Your Honor, with all humble and due
10 respect that I totally endorse your
11 criteria of efficiency, the
12 Creditors deserve it, and the
13 public at large.

14 There's no question about the
15 how you perform your duties from
16 me, as an American citizen, but I
17 got to tell you very specifically
18 that these victims have no way to
19 pay for representation. They are
20 cast aside, absolutely in a
21 terrible situation. They were part
22 of the Alter Ego, and they deserve
23 justice.

24 It's the only I have to tell

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1 you. Thank you, Your Honor.

2 THE COURT: Thank you.

3 All right.

4 Thank you all very much for
5 being here, and for your help and
6 input. We will be in recess.

7 THE COURT OFFICER: All rise.

8 - - -

9 (Whereupon, the proceedings
10 concluded at 2:00 p.m.)

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1 - - -
2 C-E-R-T-I-F-I-C-A-T-I-O-N
3 - - -

4 I hereby certify that the
5 witness was duly sworn in for this
6 deposition matter by the Court
7 Reporter.

8
9 

10 -----
Mary Hammond
11 August 18, 2025

12
13 (The foregoing certification
14 of this transcript does not apply
15 to any reproduction of the same by
16 any means, unless under the direct
17 control and/or supervision of the
18 Certified Shorthand Reporter.)
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24

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